

## The Gazette



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## NOTICE

The undermentioned Gazettes of India Extraordinary were published during the week ending the 18th September 1951 :—

Issue No.	No. and date	Issued by	Subject
133	S. R. O. 1369, dated the 6th September 1951.	Ministry of Law	The Representation of the People (Application to Part C States) Order, 1951.
	S. R. O. 1370, dated the 6th September 1951.	Ditto.	The Delimitation of Assembly Constituencies (Himachal Pradesh) Order, 1951.
134	S. R. O. 1371, dated the 6th September 1951.	Ditto.	The Representation of the People (Conduct of Elections and Election Petitions) Rules, 1951.
135	S. R. O. 1372, dated the 10th September 1951.	Ditto.	Election of members for the Parliamentary Constituencies in the State of Himachal Pradesh before the 21st December 1951.
	S. R. O. 1373, dated the 10th September 1951.	Ditto.	Appointment of electors in districts with respect to the elections to be held in the State of Himachal Pradesh.
	S. R. O. 1374, dated the 10th September 1951.	Ditto.	Appointing the 25th and 29th October 1951 as the dates on which a poll shall, if necessary, be taken in certain parts of the Himachal Pradesh State.
	S. R. O. 1375, dated the 10th September 1951.	Ministry of Food and Agriculture	Amendment in Notification No. S. R. O. 464, dated the 30th March 1951.
	S. R. O. 1376, dated the 10th September 1951.	Ditto.	Amendment in Notification No. S. R. O. 657, dated the 8th May 1951.
136	S. R. O. 1377, dated the 10th September 1951.	Ministry of Law	Amendment in the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1951.

Copies of the Gazette Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of this Gazette.

**PART II—Section 3****Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).****MINISTRY OF STATES***New Delhi, the 10th September 1951*

**S.R.O. 1429.**—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government hereby extends to the State of Bhopal, the United Provinces Panchayat Raj Act, 1947 (United Provinces Act No. XXVI of 1947), as at present in force in the State of Uttar Pradesh subject to the following modifications namely:—

**(1) Throughout the Act—**

- (i) for the words "State Government" wherever they occur, the words "Chief Commissioner" shall be substituted;
- (ii) for the words "United Provinces Land Revenue Act, 1901", "Public Gambling Act, 1867", and "Criminal Tribes Act, 1911", wherever they occur, the words "Bhopal State Land Revenue Act IV of 1932", "Bhopal State Public Gambling Act X of 1914" and "Bhopal State Criminal Tribes Act I of 1926" shall respectively be substituted;
- (iii) the words "town area" shall be omitted;
- (iv) for the word "Crown" wherever it occurs, the word "Government" shall be substituted;

**(2) For sub-section (2) of section 1, the following shall be substituted:—**

- "(2) (i) It shall come into force on such date as the Chief Commissioner may by a notification in the official gazette appoint;
- (ii) It shall extend to the whole of the State of Bhopal except any area which has been, or may hereafter be, declared as or included in, a municipality, under the provisions of the Bhopal Municipalities Act, 1916, or as a cantonment under the provisions of the Cantonments Act, 1924" or any other area which the Chief Commissioner may by notification in the official gazette specify.

**(3) In section 2,—**

- (i) clauses (f), (j), (m) and (r) shall be omitted;
- (ii) for clause (u), the following clause shall be substituted:—  
 "(u) (1) "Occupant" shall have the meaning assigned to it in clause 15 of section 2 of the Bhopal State Land Revenue Act, 1932 and includes a Jagirdar or Muafidar in whose favour land revenue has been assigned or relinquished.  
 (2) "Shikmi", shall have the meaning assigned to it in clause 21 of section 2 of the Bhopal State Land Revenue Act, 1932 but does not include a mortgagee or a person holding land directly from Government"

**(4) In section 12,—**

- (i) the proviso to sub-section (4) shall be omitted;
- (ii) sub-section (6) shall be omitted;
- (iii) the second sentence of sub-section (7) beginning with the words "Their representation" shall be omitted.

**(5) In section 15,—**

- (i) in clause (h) the words and figures "and without prejudice to the provisions of the United Provinces Melas Act, 1938" shall be omitted;
- (ii) Clause (t) shall be omitted.

**(6) Clauses (h) and (q) of section 16 shall be omitted****(7) In section 17,—**

- (i) the words "other than canals as defined in sub-section (I) of section 3 of the Northern India Canal and Drainage Act, 1873" and the words "or the district board" shall be omitted;

(ii) in clause (e), the words "and where a canal exists under the Northern India Canal and Drainage Act, 1873, with the sanction also of such officer of the Irrigation Department as the Provincial Government may prescribe" shall be omitted;

(iii) for the proviso to clause (g), the following shall be substituted:—

"Provided that without the prior permission of the Chief Engineer, Public Works Department nothing shall be done under clause (g) which may affect any canal or canal system."

(8) For the words "the District Medical Officer of Health" occurring in proviso to clause (d) of section 18, the words "Director of Medical Services and Health" shall be substituted.

(9) In sub-section (2) of section 19, the words "district board and the" shall be omitted.

(10) In section 20 the words "and the district board" shall be omitted.

(11) Clause (b) of section 22 shall be omitted.

(12) Clause (b) of section 24 shall be omitted.

(13) For the words and figures "sections 30 and 114" in section 31, the word and figure "section 30" shall be substituted.

(14) In section 32,—

(i) In clause (c) of sub-section (2), for the words "Village Panchayat Act" the words and figures "Tehsil Judicial Committee Ordinance VIII of 1948 of His Highness the Nawab of Bhopal's Farman published under notification 2 of 30th May, 1946 entitled Village Panchayats" shall be substituted.

(ii) Clauses (g) and (h) of sub-section (2) shall be omitted.

(15) For section 37, the following shall be substituted:—

"37. Subject to the prescribed rules and any orders made by the Chief Commissioner in this behalf, a Gaon Sabha may impose, assess and realise a tax on land revenue payable under the provisions of the Bhopal State Land Revenue Act, 1932, not exceeding one anna in a rupee of such revenue, the tax aforesaid being payable by the person or persons severally or jointly cultivating such lands:

Provided that if any land is cultivated by a Shikmi the tax imposed under this clause shall be payable by such Shikmi and the occupant in the proportion of three-fourths and one-fourth respectively."

(16) In section 49,—

(i) in sub-section (2) the words "or proceeding" shall be omitted;

(ii) in sub-section (3) for the words "suit or proceeding" the words "or suit" shall be substituted.

(17) Sub-section (3) and the proviso thereto of section 51 shall be omitted.

(18) Clause (c) of sub-section (1) of section 52 shall be omitted.

(19) Section 62 shall be omitted.

(20) In section 66,—

words "Bhopal State Land Revenue Act, 1932" shall be substituted;

(i) for the words "United Provinces Tenancy Act, 1939" in clause (5), the

(ii) Clause 6 shall be omitted.

(21) Sections 70, 71 and 72 shall be omitted.

(22) In section 73, the word "proceeding" shall be omitted.

(23) In section 74, for the words "suit or proceeding" the words "or suit" shall be substituted.

(24) In sections 75, 76, 77, 78, 79, 80, 81, 83, and 86, for the words "case or proceeding" wherever they occur, the words "or case" shall be substituted.

(25) In section 82, the words 'or revenue' shall be omitted.

(26) In section 85,—

(i) In sub-section (1), the words "and the Sub Divisional Officer in respect of any proceeding under the United Provinces Land Revenue Act, 1901" shall be omitted;

- (ii) for the words "suit or proceeding" the words "or suit" shall be substituted;
- (iii) for the words "case or proceeding" in clause-(a) of sub-section (1) the words "or case" shall be substituted;
- (iv) sub-section (4) shall be omitted;
- (v) In sub-section (5) for the words "Munsif or the Sub-Divisional Officer", the words "or Munsif" shall be substituted.
- (27) In section 88, the words "or proceeding" shall be omitted
- (28) In section 89 for the words and figures "in a suit to the Munsif and in a proceeding under the United Provinces Land Revenue Act 1901, to the Sub-Divisional Officer", the words "and in a suit to the Munsif" shall be substituted.
- (29) Sub-section (3) of section 93 shall be omitted.
- (30) In section 109, the words "or a district board" shall be omitted.
- (31) In sub-section (2) of section 110.—
  - (i) in clause XXII, the words, figure, letter and brackets "as defined in rule 1 (a) of the Rules relating to rural properties" shall be added thereto;
  - (ii) in clause XXXI the words "District board or" shall be omitted.
- (32) Section 113 shall be omitted.

#### ANNEXURE

The United Provinces Panchayat Raj Act, 1947 (No. XXVI of 1947) with modifications.

#### THE UNITED PROVINCES PANCHAYAT RAJ ACT, 1947

##### U. P. Act No. XXVI OF 1947

*An Act to establish and develop local self-government in the rural areas of the United Provinces.*

WHEREAS it is expedient to establish and develop local self-government in the rural areas of the United Provinces and to make better provision for village administration and development;

It is hereby enacted as follows:

#### CHAPTER I

##### PRELIMINARY

1. *Short title, extent and commencement*—(1) This Act may be called "the United Provinces Panchayat Raj Act, 1947."

(2) (i) It shall come into force on such date as the Chief Commissioner may by a notification in the official gazette appoint.

(ii) It shall extend to the whole of the State of Bhopal except any area which has been, or may hereafter be, declared as or included in a municipality, under the provisions of the Bhopal Municipalities Act, 1916, or as a cantonment under the provisions of the Cantonments Act, 1924" or any other area which the Chief Commissioner may by notification in the official gazette specify.

2. *Definitions*.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) "Panchayati Adalat" means a Panchayati Adalat established under section 42 and includes a bench thereof;
- (b) "adult" means a person, male or female, who has completed his or her twenty-first year;
- (c) "case" means a criminal proceeding in respect of an offence triable by a Panchayati Adalat;
- (d) "circle" means the area within which a Panchayati Adalat exercises jurisdiction under section 42;
- (e) "Collector" or "District Magistrate" or "Sub-Divisional Magistrate," with reference to a Gaon Sabha, means the Collector, District Magistrate or Sub-Divisional Magistrate of the district or the sub-division, as the case may be, in which such Gaon Sabha is constituted;
- (f) "Gaon Sabha" means a Gaon Sabha established under section 3;

- (g) "Gaon Panchayat" means the Executive Committee of the Gaon Sabha established under section 12;
- (h) "Point electorate system" means a system under which the electors belonging to all communities vote jointly as prescribed and not as electors of separate communities;
- (i) "Munsif" with reference to a Gaon Panchayat, means the Munsif having local jurisdiction in the area in which such Gaon Panchayat is constituted;
- (j) "population" means the population of a village or area as determined in the manner prescribed in this behalf;
- (k) "public servant" means a public servant as defined in section 21 of the Indian Penal Code, 1860 (Act XLV of 1860);
- (l) "public street" means any road, street, bridge, lane, square, court, alley or passage which the public has a right to pass along, and includes on either side of such road or street and no land up to the defined boundary of any adjoining property, notwithstanding any projection over such land of any verandah or other superstructure;
- (m) "prescribed" means prescribed by this Act or rules made thereunder;
- (n) "prescribed authority" means an authority to be notified as such by the Chief Commissioner either generally or for any particular purpose;
- (o) "suit" means a civil suit triable by a Panchayati Adalat;
- (p) "village" means any local area, recorded as a village in the revenue records of the district in which it is situate;
- (q) (i) "Occupant" shall have the meaning assigned to it in clause 15 of section 2 of the Bhopal State Land Revenue Act, 1932 and includes a Jagirdar or Muafidai in whose favour a d revenue has been assigned or relinquished
- (ii) "Shikmi", shall have the meaning assigned to it in clause 21 of section 2 of the Bhopal State Land Revenue Act, 1932 but does not include a mortgagee or a person holding land directly from Government.
- (r) "public land or common land" means the land which is not in exclusive use of any individual but is in common use of the villagers

## CHAPTER II

### ESTABLISHMENT AND CONSTITUTION OF GAON SABHAS

3 *Establishment and constitution of Gaon Sabhas and their jurisdiction*—(1) The Chief Commissioner shall by notification in the official Gazette, establish a Gaon Sabha for every village or group of villages

(2) The Chief Commissioner shall declare the name and the territorial jurisdiction of the Gaon Sabha in the notification mentioned in sub-section (1) and may at any time by notification in the official Gazette, either on its own motion or of a Gaon Sabha or of the residents of any village, include any area in or exclude any area from the area of a Gaon Sabha

(3) Where by notification under sub-section (2) any area is included in the jurisdiction of a Gaon Sabha, such area shall thereby become subject to all notifications, rules, regulations, by-laws and orders made under this or any other enactment in force in the area within the jurisdiction of the aforesaid Gaon Sabha

4 *Incorporation of Gaon Sabha*—Every Gaon Sabha shall, by the name notified in the official Gazette under section 3, be a body corporate having perpetual succession, and a common seal and shall, subject to any restriction or condition imposed by or under this or any other Act have power to acquire, by purchase, gift or otherwise to hold, administer, and transfer property, both movable and immovable, and to enter into any contract and shall, by the said name, sue or be sued.

5 *Membership of Gaon Sabha*—A Gaon Sabha shall consist of all adults permanently residing within the area in which the Sabha is established, but no such adult shall be entitled to be or to remain a member of a Gaon Sabha, if he—

- (a) is of unsound mind, or
- (b) is suffering from leprosy, or
- (c) is an undischarged insolvent or

- (d) is a servant of the Government or a local authority serving in, or is an honorary magistrate, honorary munsif or honorary assistant collector having jurisdiction over, any area of the Gaon Sabha or a part thereof; or
- (e) is convicted of an election offence; or
- (f) has been convicted for an offence involving moral turpitude or ordered to give security for good behaviour under section 110 of the Code of Criminal Procedure, 1898 (V of 1898):

Provided that the disqualification under clause (c) or (e) or (f) may be removed by an order of the Provincial Government or the prescribed authority.

6. *Period of membership.*—A member of a Gaon Sabha shall continue to be its member until his death or until he incurs any disqualification specified in section 5 or until the area in which he resides is excluded from the jurisdiction of the Gaon Sabha under section 8; or until the abandonment of his permanent residence in the village:

Provided that a person described in section 5 who has ceased to be a member by reason of a disqualification mentioned therein or abandonment of permanent residence in the village shall, on the removal of the disqualification or the resumption of his permanent residence in the village, as the case may be, and on an application made by him to the President of the Gaon Sabha in this behalf, be, after such inquiry as may be prescribed, re-enrolled as a member thereof

7. *Disqualification or defect on appointment or nomination not to vitiate act or proceeding.*—No disqualification, defect or omission in the enrolment of a member shall vitiate any act or proceeding of a Gaon Sabha if not less than two-thirds of the members at the time the act is done, or the proceeding taken, were duly qualified members thereof.

8. *Effect of change in population or inclusion of the area of a Gaon Sabha in municipalities, etc.*—If the whole of the area of a Gaon Sabha is included in a municipality, cantonment, notified area, the Gaon Sabha shall cease and its assets and liabilities shall be disposed of in the manner prescribed. If a part of such area is so included, its jurisdiction shall be reduced by that part.

9. *Register of members.*—On the establishment of a Gaon Sabha the prescribed authority shall cause to be prepared a register, in the prescribed form, of all adult persons permanently residing within the jurisdiction of such Gaon Sabha and such register shall, among other things, contain the names of every person entitled under section 5 to be a member of the Gaon Sabha on the date of its establishment. The register so prepared shall be revised at least once a year in the manner prescribed.

10. *Removal of difficulty in the establishment of Gaon Sabha and in the working of a Gaon Panchayat.*—If, in establishing a Gaon Sabha or in the working of a Gaon Panchayat, any dispute or difficulty arises regarding the interpretation of any provision of this Act or any rule made thereunder or any matter arising out of or relating to such interpretation or any matter not provided in this Act, the same shall be referred to the Chief Commissioner whose decision thereon shall be final and conclusive.

### CHAPTER III

#### THE GAON SABHA: ITS MEETINGS AND FUNCTIONS

11. *Duties and functions of the Gaon Sabha.*—(1) Every Gaon Sabha shall hold two general meetings in each year, one soon after harvesting of the *kharif* crop (hereinafter called the *kharif* meeting) and the other soon after harvesting of the *rabi* crop (hereinafter called the *rabi* meeting):

Provided that the President may at any time or upon a requisition in writing of not less than one-fifth of the members shall, within 30 days from the receipt of such requisition, call an extraordinary general meeting. The time and place of all the meetings of the Gaon Sabha shall be published in the prescribed manner.

(2) For any meeting of the Gaon Sabha one-fifth of the total number of members of the Gaon Sabha shall form the quorum; provided that no quorum shall be necessary for a meeting adjourned for want of quorum.

(3) The Gaon Sabha shall elect from amongst its members a President and a Vice-President who shall respectively be called Pradhan or Sadar and Up-Pradhan or Naib-Sadar and their term of office shall be three years.

12. *Establishment and constitution of Gaon Panchayat.*—(1) As soon as may be after its establishment, every Gaon Sabha shall elect from among its members an Executive Committee called the Gaon Panchayat.

(2) The number of members of a Gaon Panchayat shall be between 30 and 51 as may be specified by the Chief Commissioner in addition to the President and Vice-President of the Gaon Sabha who shall also be the President and Vice-President, respectively, of the Gaon Panchayat.

(3) The term of office of a member of a Gaon Panchayat other than a President or Vice-President or a member chosen to fill a casual vacancy shall be three years.

Provided that upon the first constitution of the Gaon Panchayat the prescribed authority shall reduce the term of office of some of the members then chosen for procuring that, as nearly as may be, one-third of the members shall retire annually.

(4) The area of a Gaon Sabha may be divided by the prescribed authority into such number of constituencies as may be convenient for the purpose of election:

(5) The election of the members of a Gaon Panchayat in a Gaon Sabha or in a constituency thereof shall be held on the joint electorate system.

(6) Where there are any scheduled castes in the area of a Gaon Sabha, such number of seats shall be assigned to them for the first election as may be in proportion to their population in the area of such Gaon Sabha

13. *Budget of Gaon Sabha.*—The Gaon Sabha shall at each *khari* meeting consider and pass the budget for the following year and at its *rabi* meeting it shall consider the accounts of the preceding year. At both meetings the Gaon Sabha shall consider the biennial reports of business submitted by the President.

14. *Removal of President or Vice-President of Gaon Sabha and filling of vacancies so caused.*—The Gaon Sabha may at any ordinary meeting remove the President or the Vice-President by a majority of two-third votes of those present. In such an event and otherwise when any vacancy occurs the Gaon Sabha shall forthwith elect another President or the Vice-President in the prescribed manner.

#### CHAPTER IV

##### POWERS, DUTIES, FUNCTIONS AND ADMINISTRATION OF GAON PANCHAYATS

15. *Duties and functions.*—It shall be the duty of every Gaon Panchayat so far as its funds may allow to make reasonable provision within its jurisdiction for—

- (a) construction, repair, maintenance, cleansing and lighting of public streets;
- (b) medical relief;
- (c) sanitation and taking curative and preventive measures to remove and to stop the spread of an epidemic;
- (d) upkeep, protection and supervision of any buildings, or other property which may belong to the Gaon Sabha or which may be transferred to it for management;
- (e) registering births, deaths and marriages, and maintenance of the register mentioned in section 9;
- (f) removal of encroachments on public streets, public places and property vested in the Gaon Sabha;
- (g) regulating places for the disposal of the dead bodies of human beings and animals and of other offensive matter;
- (h) regulation of *melas*, markets and *hats* within its area, except those managed by the Provincial Government.
- (i) establishing and maintaining primary schools for boys and girls;
- (j) establishment, management and care of common grazing grounds and land for the common benefit of the persons residing within its jurisdiction;
- (k) construction, repair and maintenance of public wells, tanks and ponds for the supply of water for drinking, washing and bathing purposes, and regulation of sources of water supply for drinking purposes;
- (l) regulating the construction of a new building or the extension or alteration of any existing building;
- (m) assisting the development of agriculture, commerce and industry;
- (n) rendering assistance in extinguishing fire and protecting life and property when fire occurs;

- (o) the administration of civil and criminal justice and the election of Panches on the panel of the Panchayati Adalat according to the provisions of this Act and rules made thereunder;
- (p) the maintenance of such records relating to cattle census, population census and other statistics as may be prescribed;
- (q) maternity and child welfare;
- (r) allotment of places for storing manure;
- (s) fulfilling any other obligation imposed by any other law on a Gaon Sabha;

16. *Discretionary functions.*—A Gaon Panchayat may also make provision within its jurisdiction for—

- (a) planting and maintaining trees at the sides of public streets and in other public places;
- (b) the improved breeding and medical treatment of cattle and prevention of disease in them;
- (c) filling in of insanitary depressions and levelling of land;
- (d) organizing, subject to rules prescribed, a village volunteer force for watch and ward, for assisting Gaon Panchayat and Panchayati Adalat in the discharge of their functions and for the service of summons and notices issued by them;
- (e) assisting and advising agriculturists in the obtaining and distribution among them of Government loans and in the repayment thereof, in the liquidation of old debt and generally in the establishment of sound credit system according to law;
- (f) development of co-operation and establishment of improved seed and implement stores;
- (g) relief against famine or other calamity;
- (h) extension of the *abadi*;
- (i) establishment and maintenance of a library or reading room;
- (j) establishment and maintenance of an *akhara* or club or other place for recreation and games;
- (k) regulating the collection, removal and disposal of manure and sweepings;
- (l) prohibiting or regulating the curing, tanning, and dyeing of skins within 220 yards of the *abadi*;
- (m) setting up organizations to promote goodwill and social harmony between different communities;
- (n) public radio sets and gramophones;
- (o) any other measure of public utility calculated to promote the moral and material well-being or convenience of the villagers;
- (p) the doing of anything the expenditure on which is declared by the Chief Commissioner or by the prescribed authority with the sanction of the Provincial Government to be an appropriate charge on the fund of the Gaon Sabha.

17. *Power of Gaon Panchayats as to public streets, waterways and other matters.*—A Gaon Panchayat shall have control of all public streets, waterways, situate within its jurisdiction not being a private street or waterways and not being under the control of the Chief Commissioner or any other authority specified by the Chief Commissioner and may do all things necessary for the maintenance and repair thereof, and may—

- (a) construct, new bridges or culverts;
- (b) divert, discontinue, or close any public street, culvert or bridge;
- (c) widen, open, enlarge or otherwise improve any public street, culvert or bridge with minimum damage to the neighbouring fields;
- (d) deepen or otherwise improve waterways;
- (e) with the sanction of the prescribed authority undertake small irrigation projects;
- (f) cut any hedge or branch of any tree projecting on a public street;



- (g) notify the setting apart of any public watercourse for drinking of culinary purposes, and prohibit bathing, washing of clothes and animals or doing of other acts likely to pollute the course so set apart:

Provided that without the prior permission of the Chief Engineer, Public Works Department nothing shall be done under clause (g) which may affect any canal or canal system.

18. *Improvement of sanitation.*—For the improvement of sanitation, a Gaon Panchayat may, by notice, direct the owner or occupier of any land or building, taking into consideration his financial position and giving him reasonable time for compliance thereof—

- (a) to close, remove, alter, repair, cleanse, disinfect or put in good order any latrine, urinal, water-closet drain, cesspool or other receptacle for filth, sullage-water, rubbish or refuse pertaining to such land or building or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water-closet which opens on to a street or drain, or to shut off such latrine, urinal or water-closet by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood;
- (b) to cleanse, repair, cover, fill up, drain off, deepen, or to remove water from a private well, tank, reservoir, pool, pit, depression or excavation therein which may appear to the Gaon Panchayat to be injurious to health or offensive to the neighbourhood;
- (c) to clear off any vegetation, undergrowth, prickly pear or scrub-jungle;
- (d) to remove any dirt, dung, nightsoil, manure or any noxious or offensive matter therefrom and to cleanse the land or building:

Provided that a person on whom a notice under clause (b) is served may, within 30 days of the receipt of the notice appeal to the Director of Medical Services and Health against the said notice who may vary, set aside or confirm it.

19. *Maintenance and improvement of schools and hospitals.*—(1) A Gaon Panchayat—

- (a) shall subject to such rules as may be prescribed regarding the curriculum, employment and qualification of teachers and supervision of a school, maintain any existing primary school including the buildings and furniture thereof and be responsible for its proper working and may similarly establish and maintain a new school or improve any existing school;
- (b) shall, subject to such rules as may be prescribed regarding the establishment, maintenance and supervision, maintain any existing Ayurvedic or Unani hospital or dispensary including the building and equipments thereof and may similarly establish and maintain a new hospital or dispensary for one or more of the systems of medicine mentioned above.

(2) The Chief Commissioner shall make such grants for such school, hospital or dispensary, as may be prescribed.

20. *Establishment of primary school and hospital or dispensary for a group of Gaon Sabhas.*—Where a group of neighbouring Gaon Sabhas have no primary school or Ayurvedic or Unani hospital or dispensary, the Gaon Panchayats thereof shall, if so directed by the prescribed authority, combine to establish and maintain such a school, hospital or dispensary, and it shall be managed and financed in the manner prescribed. The Chief Commissioner shall make such grants for such school, hospital or dispensary as may be prescribed.

21. *Assistance to Government servants.*—A Gaon Panchayat shall, if so prescribed by the Provincial Government and so far as practicable, assist any Government servant in the performance of his duties within its area.

22. *Representations and recommendations by Gaon Panchayats.*—A Gaon Panchayat may make to the proper authority—

- (a) any representation concerning the welfare of the persons residing within its jurisdiction.

23. *Power to enquire and report about the misconduct of certain officials.*—On receiving a complaint from any person, residing within the jurisdiction of a Gaon Panchayat about any misconduct in the discharge of their official duties by any

amin, process server, vaccinator, constable, patwari, patrol of the Irrigation Department or peon of any Government Department, such Panchayat may, if there be *prima facie* evidence, forward the complaint to the proper authority with its own report. The authority shall, after such further enquiry as may be required, take suitable action and inform the Gaon Panchayat of the result.

24. *Power to contract for collection of taxes and other dues for proprietors.*—A Gaon Panchayat may, as prescribed and in respect of any area within its jurisdiction, enter into a contract—

- (a) with the Chief Commissioner to collect any taxes or dues payable to the Government on being allowed by the Chief Commissioner such collection charges as may be prescribed.

25. *Staff.*—(1) A Gaon Panchayat may propose to the prescribed authority other than the Secretary, whole-time or part-time, it proposes to employ, the salaries and allowances, if any, to be paid to them and the duties to be assigned to each one of them. The prescribed authority may, as prescribed, approve, modify or reject the proposal. The Gaon Panchayat may then appoint the staff in accordance with the scheme as approved by the prescribed authority.

(2) A Gaon Panchayat may, subject to the approval of the prescribed authority, make any change in the scheme aforesaid.

(3) Notwithstanding anything in sub-section (1), a Gaon Panchayat may, in case of an emergency, appoint a servant without the sanction of the prescribed authority for a period not exceeding three months.

(4) The power of appointment, discharge or dismissal of a servant of a Gaon Panchayat shall be exercised by the Panchayat but the power of punishment, disciplinary action or promotion may be delegated to such officer of the Panchayat as may be prescribed; provided that an appeal from the order of such officer shall lie to the Gaon Panchayat in the manner prescribed.

25-A. (1) Subject to such directions as the Chief Commissioner may give, there shall be appointed by such authority as may be prescribed a Secretary for every Gaon Panchayat or a group of Gaon Panchayats. The Secretary so appointed shall also be *ex-officio* Secretary of the Gaon Sabha or Gaon Sabhas concerned.

(2) The Secretary shall, in the matter of leave, promotion, transfer, dismissal, removal and other disciplinary action be under the administrative control of the prescribed authority aforesaid which shall exercise its powers and functions in the manner prescribed:

Provided that an order of the prescribed authority removing or dismissing a Secretary shall be appealable within a period and in the manner, to be prescribed, to the District Magistrate, or if any other authority is prescribed in this behalf to such other authority.

26. *Right of individual members.*—A member of a Gaon Panchayat may, at any meeting, move any resolution and put question to the President or Vice-President on matters connected with the administration of the Gaon Panchayat in the manner prescribed.

27. *Penalty for causing loss, waste, or misapplication of money or property of the Gaon Panchayat.*—(1) Every member of the Gaon Panchayat, any joint committee or any other committee constituted under this Act shall be liable for the loss, waste or mis-application of any money or property belonging to the Gaon Panchayat, if such loss, waste or mis-application is a direct consequence of his neglect or misconduct while a member of the Gaon Panchayat, joint committee or other committee, and a suit for compensation may be instituted against him by the Gaon Panchayat with the previous sanction of the prescribed authority.

(2) If the prescribed authority sanctions the institution of a suit under sub-section (1), or refuses to grant the sanction, the member concerned, or the Gaon Panchayat as the case may be, may, within 30 days of such sanction or refusal, appeal to the Chief Commissioner or an appellate prescribed authority against the said sanction or refusal.

(3) The Chief Commissioner may institute a suit mentioned in sub-section (1) on its own initiative.

28. *Member and servants to be public servants.*—Every member or servant of a Panchayati Adalat, a Gaon Panchayat, a joint committee or any other committee constituted under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

29. *Committee*.—Subject to the prescribed conditions, a Gaon Panchayat may establish a committee to assist it in the discharge of any specified duty or class of duties and may delegate to such committee such of its powers as may be necessary for the purpose of rendering such assistance.

30. *Joint Committee*.—(1) Subject to such rules as may be prescribed, two or more Gaon Sabhas may combine by means of a written instrument to appoint a joint committee consisting of their representatives, for the purpose of transacting any business in which they are jointly interested and may—

- (a) delegate to such committee power, with such conditions as they may think proper to impose, to frame any scheme binding on each such Gaon Sabha as to the construction and maintenance of any joint work and as to the power which may be exercised by any such Sabha in relation to such scheme; and
- (b) frame or modify rules regarding the continuation of such committee and the term of office of members thereof and the method of conducting proceedings and correspondence.

(2) If any difference of opinion arises, between the Gaon Sabhas acting under this section, it shall be referred to the prescribed authority whose decision thereon shall be final.

31. *Delegation*.—All the duties, powers and functions of the Gaon Sabha except those specified in Chapter III and section 30 shall be exercised, performed or discharged by the Gaon Panchayat and not otherwise.

32. (1) Vested in each Gaon Sabha there shall be a Gaon Fund which shall be utilized by the Gaon Panchayat or, subject to the provisions of the budget passed under section 13, to meet charges in connection with its duties under this Act.

(2) The following shall be credited to the Gaon Fund:

- (a) The proceeds of any tax imposed under this Act.
- (b) All sums handed over by the Chief Commissioner to the Gaon Sabha.
- (c) The balance, if any, standing to the credit of the village panchayat previously in existence under the Tehsil Judicial Committee Ordinance VIII of 1948 of His Highness the Nawab of Bhopal's Farman published under notification 2 of 30th May, 1948 entitled Village Panchayats.
- (d) All sums ordered by a court to be placed to the credit of the Gaon Fund.
- (e) All sums received under section 104.
- (f) The sale-proceeds of all dust, dirt, dung or refuse including the dead bodies of animals, collected by the servants of the Gaon Panchayat.
- (g) Such portion of the rent or other proceeds of nazul property as the Chief Commissioner may direct to be placed to the credit of the Gaon Fund.
- (h) Sums contributed to the Gaon Fund by any district board or other local authority.
- (i) All sums received by way of loan or gift.
- (j) Such other sums as may be assigned to the Gaon Fund by any special or general order of the Chief Commissioner.
- (k) All sums received by the Gaon Panchayat from any individual or corporation or the Chief Commissioner under section 24 or any other law.

(3) Nothing in this section shall affect any obligation of a Gaon Sabha arising from a trust legally imposed upon or accepted by it.

## CHAPTER V

### ACQUISITION OF LAND, GAON FUND AND PROPERTY

33. *Power to acquire land*.—Where a Gaon Sabha or a number of Gaon Sabhas which have combined under the provisions of section 20 or 30 require any land to carry out any purpose of this Act, it or they shall first try to have the land by private negotiation and if the parties concerned fail to arrive at an agreement, such Gaon Sabha or Gaon Sabhas may make an application in the prescribed form to the Collector to acquire the land and the Collector may acquire such land for such Gaon Sabha or Gaon Sabhas.

*Explanation*—In this chapter the expression 'land' includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth

34 *Property vested in the Gaon Sabha*—(1) Subject to any special reservation made by the Provincial Government, all public property situated within the jurisdiction of a Gaon Sabha shall vest in and belong to the Gaon Sabha and shall, with all other property which may become vested in the Gaon Sabha be under its direction, management and control

(2) All markets and fairs or such portions thereof as are held upon public land shall be managed and regulated by the Gaon Panchayat and the Gaon Sabha shall receive to the credit of the Gaon Fund all dues levied or imposed in respect thereof.

35 *Disposal of claims*.—Where any dispute arises as regards the ownership of any property mentioned in section 34 between a Gaon Sabha and any person, the Gaon Panchayat shall give such persons a reasonable opportunity of being heard and then decide whether to treat the said property as the property of the Gaon Sabha

36 *Power to borrow*—With the sanction of the prescribed authority and subject to such conditions as may be prescribed, a Gaon Sabha may borrow money from the Chief Commissioner to carry out any of the purposes of this Act

37 *Taxes which may be imposed*.—(1) (a) Subject to the prescribed rules and any orders made by the Chief Commissioner in this behalf a Gaon Sabha may impose assess and realise a tax on land revenue payable under the provisions of the Bhopal State Land Revenue Act, 1932 not exceeding one anna in a rupee of such revenue the tax aforesaid being payable by the person or persons severally or jointly cultivating such lands

Provided that if any land is cultivated by a Shikmi the tax imposed under this clause shall be payable by such Shikmi and the occupant in the proportion of three-fourths and one-fourth respectively

(b) A tax on rent received by any proprietor or under-proprietor on account of land as defined in section 3 of the UP Tenancy Act 1939 (UP Act XVII of 1939) not exceeding six pies in a rupee of such rent the tax aforesaid being payable by the person or persons severally or jointly recorded in proprietary or under-proprietary possession of such land in accordance with the provisions of section 32 of the Bhopal State Land Revenue Act IV of 1932

(c) A tax upon the assumed rental value of *sir* and *khudkash* and calculated in accordance with the proviso of section 63-D of the Bhopal State Land Revenue Act IV of 1932, the tax aforesaid being payable by the person or persons severally or jointly recorded in proprietary or under-proprietary possession of the *sir* land in accordance with section 32 of the Bhopal State Land Revenue Act IV of 1932, at a rate not exceeding one anna in a rupee

(d) A tax on trade callings and professions not exceeding such rate as may be prescribed

(e) A tax on buildings owned by persons who do not pay any of the aforesaid taxes not exceeding such rate as may be prescribed

(2) A tax under clause (a) (b) or (c) of sub-section (1) shall not be imposed alone and if a tax under any one of the aforesaid three clauses is imposed, a tax under either two clauses shall also be imposed and the rates imposed under all three clauses shall bear to one another the same ratio as the maximum rates prescribed therein bear to one another

*Exception*—If a Gaon Sabha impose a tax under clauses (a) and (c) of sub-section (1) at the rate of one-half anna in the rupee a tax at the rate of one-quarter anna of the rent payable to the proprietors shall be imposed under clause (b) of the said sub-section

(3) The taxes under sub-section (1) shall be imposed, assessed and realized in such manner and paid or realized at such times as may be prescribed

38 *Realization of dues custody of funds and accounts*.—The Gaon Panchayat shall, as prescribed arrange for the realization of panchayat taxes and dues, custody of its funds and maintenance of accounts

39 *Audit*.—(1) The expenses of the Panchayat Adalat shall be charged to the Gaon Fund of each unit in a circle in equal proportion

(2) All sums realized by way of court-fees in any case, suit, or proceeding or by way of fine in cases tried and disposed of by a Panchayati Adalat shall be handed over by the Chief Commissioner to the Gaon Sabhas situated within the jurisdiction of the Panchayati Adalat in equal proportion.

40 *Budget*—The accounts of every Gaon Sabha shall be audited every year as prescribed.

41 (1) (a) Every Gaon Panchayat shall prepare and lay before the *kharif* meeting of the Gaon Sabha a budget estimate of its income and expenditure for the year commencing on the 1st day of April next following.

(b) Every Gaon Panchayat shall prepare and lay before the *rabi* meeting of the Gaon Sabha its report including the account of its actual and expected receipts and expenditure for the year ending on the 31st March last preceding such meeting.

(2) The Gaon Sabha may pass or refer back to the Gaon Panchayat the budget submitted to it for its consideration with such direction as it may give in the manner prescribed and may likewise pass a recommendatory resolution in respect of the report or of any other matter.

(3) If the budget is referred to the Gaon Panchayat for reconsideration as aforesaid the President shall call an extraordinary meeting of the Gaon Sabha to be held within a fortnight of the said annual meeting and the Gaon Panchayat shall re-submit the budget at the said meeting with such modifications as may be necessary in the light of the directions of the Sabha, and the Gaon Sabha shall then pass the budget in the manner prescribed.

Subject to rules made in this behalf the budget shall take effect after it has been approved by the prescribed authority, and a Gaon Panchayat may incur any expenditure under any of the heads of the budget in excess of the amount approved under that head without variation or alteration of the budget with the approval of the prescribed authority.

## CHAPTER VI

### THE PANCHAYATI ADALAT

42 *Circle for Panchayati Adalat*—The Chief Commissioner or the prescribed authority shall divide a district into circles, each circle comprising as many areas subject to the jurisdiction of Gaon Sabhas as may be expedient, and establish Panchayati Adalats for each such circle.

Provided that the areas of Gaon Sabhas within each circle shall, as far as possible be contiguous.

43 *Constitution of Panchayati Adalat*—Every Gaon Sabha in a circle shall elect five adults of prescribed qualification permanently residing within its jurisdiction to act as Panches in the Panchayati Adalat of that circle. The Panches so elected by all the Gaon Sabhas in a circle shall form a panel.

44 *Election of Sarpanch*—If the Panches elected under section 43 shall elect from among themselves a person who is able to record proceedings and to act as Sarpanch of the Panchayati Adalat.

Provided that any dispute arising out of such election shall be referred to the prescribed authority whose decision shall be subject to revision by the Chief Commissioner.

45 *Term of Panchayati Adalat*—The term of office of every Panch shall be three years from the date of his election.

46 *Oath of office*—Every Panch elected under section 43 shall, as soon as possible after his election, take oath of office in the manner prescribed.

47 *Resignation*—A Panch may submit the resignation of his office to the prescribed authority.

48 *Removal*—(1) A Panch may be removed at any time by the prescribed authority in the manner and for the reasons prescribed.

(2) A Panch removed under sub-section (1) shall not be entitled to re-election as a Panch for a period of three years.

49 (1) The Sarpanch shall, for the trial of every case, suit or proceeding, form a bench of five panches from the panel, provided that at least one of the

panches in the bench shall be a person who is able to record evidence and proceedings.

(2) Every such bench shall include one Panch who resides in the area of the Gaon Sabha in which the plaintiff of a suit or the complainant of a case resides and likewise one Panch residing in the area of the Gaon Sabha in which the defendant or the accused resides, and three Panches residing in the area of the Gaon Sabha in which neither party resides; provided that in police cases one Panch shall be such as may be residing in the area of the Gaon Sabha in which the offence was committed, one Panch residing in the area of Gaon Sabha in which the accused resides and three Panches residing in the areas other than those mentioned above.

(3) No Panch or Sarpanch shall take part in any case or suit to which he or any near relation, employer, employee or partner in business of his is a party or in which any of them may be personally interested.

(4) Notwithstanding anything contained in this section the Chief Commissioner may, by rules prescribed the constitution of special benches for determining any dispute arising between any parties or Gaon Sabhas of different circles or for any other purpose.

50. *Filling of casual vacancies*—If a vacancy in the office of a Panch arises by reason of his death, removal or resignation, it shall be filled for the unexpired portion of his term in the manner provided in section 43 and if the Panch vacating the office was a Sarpanch, he shall be elected in the manner provided in section 44.

51. *Territorial jurisdiction*.—(1) Notwithstanding anything contained in the Criminal Procedure Code, 1898 (V of 1898), every case instituted under this Act shall be instituted before the Sarpanch of the Panchayati Adalat of the circle in which the offence is committed.

(2) Notwithstanding anything the Civil Procedure Code, 1908 (V of 1908), every suit instituted under this Act shall be instituted before the Sarpanch of the Panchayati Adalat of the circle in which the defendant or any of the defendants, where they are more than one, ordinarily resides or carries on business at the time of the institution of the suit irrespective of the place where the cause of action arose.

52. (1) Offences under the following sections, if committed within the jurisdiction of a Panchayati Adalat as well as abetments of and attempts to commit such offences shall be cognizable by such Panchayati Adalat:

- (a) Sections 140, 160, 172, 174, 179, 277, 279, 283, 285, 286, 289, 290; 294, 323, 334, 336, 341, 352, 356, 357, 358, 374, 379 403, 411 (where the value of the stolen or misappropriated property as far as sections 379, 403 and 411 are concerned, does not exceed fifty rupees) 426, 428, 430, 447, 448, 504, 506, 509, 599 and 510 of the Indian Penal Code, 1860 (XLV of 1860);
- (b) Sections 20 to 24 of the Cattle Trespass Act, 1871 (I of 1871);
- (c) An offence under this Act or any rule made thereunder;
- (d) Any offence under sections 3, 4 and 7 of the Bhopal State Public Gambling Act X of 1914.
- (e) Any other offence under any other enactment, declared by the Chief Commissioner to be cognizable by a Panchayati Adalat.

(2) Any case relating to an offence under sections 143, 145, 151 or 153 of the Indian Penal Code, 1860 (XLV of 1860), pending before any court may be transferred for trial to the Panchayati Adalat, if in the opinion of such court the offence is not serious.

53. *Security for keeping the peace*.—(1) Whenever the Sarpanch of a Panchayati Adalat has reason to apprehend that any person is likely to commit a breach of peace or disturb public tranquillity, he may call upon such person to show cause why he should not execute a bond for an amount not exceeding Rs. 100 with or without sureties for keeping the peace for a period not exceeding 15 days.

(2) The Sarpanch, shall after issue of such notice, constitute within three days a Bench to deal with the matter; provided that at least one Panch of the Bench shall belong to the Gaon Sabha in which such person resides.

The Bench may confirm the order or discharge the notice after hearing such person and such witnesses as he may desire to produce.

54. *Penalties.*—(1) No Panchayati Adalat shall inflict a substantive sentence of imprisonment.

(2) A Panchayati Adalat may impose a fine not exceeding one hundred rupees but no imprisonment may be awarded in default of payment.

55. *Cognizance of suits.*—No court shall take cognizance of any case or suit which is cognizable under the Act by a Panchayati Adalat unless an order has been passed by a sub-divisional magistrate or munsif under section 85.

56. *Transfer of criminal proceedings to the Panchayati Adalat in certain cases.*—If at any stage of proceedings in a criminal case pending before a magistrate it appears that the case is triable by a Panchayati Adalat, he shall at once transfer the case to that Panchayati Adalat, which shall try the case *de novo*.

57. *Summary dismissal of complaint.*—Panchayati Adalat may dismiss any complaint if after examining complainant and taking such evidence as he produces it is satisfied that the complaint is frivolous, vexatious or untrue.

58. *Return of complaint.*—If at any time it appears to a Panchayati Adalat—

- (a) that it has no jurisdiction to try any case before it, or
- (b) that the offence is one for which it cannot award adequate punishment, or
- (c) that the case is of such nature or complexity that it should be tried by a regular court; it shall return the complaint to the complainant directing him to file it before the Sub-Divisional Magistrate, having jurisdiction to try such case.

59. *Certain person not to be tried by the Panchayat.*—No Panchayati Adalat shall take cognizance of any offence in which the accused—

- (a) has been previously convicted of an offence with imprisonment of either description for a term of three years or more, or
- (b) has been previously fined for theft by any Panchayati Adalat, or
- (c) is a registered member of a criminal tribe, under section 4 of the Bhopal State Criminal Tribes Act I of 1926.
- (d) has been bound over to be of a good behaviour under section 109 or 110 of the Code of Criminal Procedure, 1898 (V of 1898), or
- (e) has been previously convicted for gambling.

60. *Compensation to complainants.*—In imposing any fine the Panchayati Adalat may order any portion or the whole of the fine recovered to be applied—

- (a) in defraying the expenses properly incurred in the case by the complainant, and
- (b) in compensation for any material damage or loss caused by the offence committed.

61. *Compensation to the accused.*—If a Panchayati Adalat is satisfied after enquiry that a case brought before it was false, frivolous or vexatious, it may order the complainant to pay to the accused such compensation not exceeding five rupees as it thinks fit.

62. *Enquiry in cases forwarded by Magistrates.*—A Magistrate may direct an inquiry to be made under section 202 of the Code of Criminal Procedure, 1898 (V of 1898), by a Panchayati Adalat in any case in which the offence committed within the territorial jurisdiction of such Panchayati Adalat and the Panchayati Adalat shall inquire into the case and submit its report to the said Magistrate.

63. *Extent of jurisdiction.*—The jurisdiction of a Panchayati Adalat shall extend to any suit of the following description if its value does not exceed one hundred rupees:

- (a) a suit for money due on contract, other than a contract in respect of immovable property;
- (b) a suit for the recovery of movable property or for the value thereof.
- (c) a suit for compensation for wrongfully taking or injuring a movable property; and
- (1) a suit for damage caused by cattle trespass;
- (2) The Chief Commissioner or the prescribed authority may, by notification in the official Gazette, direct that the jurisdiction of any

Panchayati Adalat shall extend to all such suits of such value not exceeding five hundred rupees as may be specified in the notification.

64. *Extension of jurisdiction by agreement of Parties.*—Parties to a suit may, by a written agreement, refer any suit of the nature mentioned in section 82 to a Panchayati Adalat for decision by it irrespective of the value of the suit, and the Panchayati Adalat shall, subject to rules prescribed, determine and dispose of such suit under this Act.

65. *Exclusion of Panchayati Adalat's jurisdiction.*—Panchayati Adalat shall have no jurisdiction to take cognizance of the following suits:

- (1) a suit for a balance of partnership account, unless the balance has been struck by the parties or their agents;
- (2) a suit for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will;
- (3) a suit by or against the Government or a public servant for acts done in his official capacity;
- (4) a suit by or against a minor or a person of unsound mind;
- (5) a suit cognizable by a revenue court under the Bhopal State Land Revenue Act, 1932.

66. *Suits to include the whole claim.*—(1) Every suit instituted before a Panchayati Adalat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the Panchayati Adalat.

(2) If a plaintiff omits to sue in respect of or relinquishes any portion of it, he shall not afterwards sue in respect of the portions so omitted or relinquished.

67. *Limitations.*—Every suit instituted before a Panchayati Adalat after the period of limitation prescribed therefor in the schedule shall be dismissed, even though limitation has not been set up as a defence.

68. *Effect of the decision by Panchayati Adalat.*—The decision of a Panchayati Adalat on the question of title, legal character, contract or obligation shall not bind the parties except in respect of the suit in which such matter is decided.

69. *Resjudicata and pending suits.*—(1) No Panchayati Adalat shall try any suit, or issue in respect of any matter which is pending for decision in, or has been heard or decided by a court of competent jurisdiction, in a former suit between the same parties or between the parties under whom they or any of them claim.

(2) Where a case is pending in any court against an accused person in respect of any offence or where an accused person has been tried for any offence, no Panchayati Adalat shall take cognizance of any such offence or on the same facts, of any other offence of which the accused might have been charged or convicted.

70. *Concurrent jurisdiction.*—Where a case or suit is maintainable in more than one Panchayati Adalat, the plaintiff or the applicant or the complainant, as the case may be, may bring the case, or suit in any one of such Panchayati Adalats. Any dispute regarding jurisdiction shall be decided by the Sub-Divisional Magistrate, Munsif or Sub-Divisional Officer, having jurisdiction, as the case may be.

71. *Institution of suits and cases.*—Any person who wishes to institute a suit or case under this Act before a Panchayati Adalat may make an application orally or in writing to the Sarpanch of the Panchayati Adalat or in case of his absence from the circle to such other Panch as he may have appointed in this behalf and shall at the same time pay the prescribed fee. The Court-Fees Act 1870 (VII of 1870), shall not apply to Panchayati Adalats except as may be prescribed. In every suit, the plaintiff shall state its value.

72. *Substance of the application to be recorded in register.*—(1) Where a suit, or case is instituted orally, the Sarpanch or Panch receiving the application shall record without delay the prescribed particulars and the signature or thumb-impression of the applicant shall be taken thereon.

(2) The Sarpanch or in his absence the Panch mentioned in section 75 shall thereupon appoint a Bench of the Panchayati Adalat under section 49 and refer the said application to that bench for disposal and shall also fix a date for the first hearing of the application before the said bench and give notice of the said date to the applicant and to the members hereof.



73. *Manner of procedure.*—Every suit, or case instituted in accordance with the provisions of section 76 shall be brought before the bench of the Panchayati Adalat on the date fixed and the bench shall, unless the Sarpanch is a member of it, choose one of their members to be the chairman of that bench who shall conduct the proceedings.

74. *Dismissal of suits and cases in the absence of the party concerned.*—(1) if the plaintiff, the complainant, or the applicant fails to appear after having been informed of the time and place fixed for hearing, the Panchayati Adalat may dismiss the suit, or case or pass such order as it may deem fit.

(2) The Panchayati Adalat may hear and decide the suit, case or proceeding in the absence of the defendant, accused or opposite-party, if the summons have been served upon him or if he has been informed of the time and place fixed for hearing.

75. *Panchayati Adalat not to revise or alter its decision.*—(1) Except as provided in sub-section (2), or to correct a clerical error, a Panchayati Adalat shall have no power to cancel, revise or alter any decree or order passed by it.

(2) A Panchayati Adalat may, for sufficient reasons to be recorded, on application made within one month of the date of the decree or order or knowledge thereof in case personal service of summons has not been effected restore any suit, or case which has been dismissed in default or in which a decree or order has been passed *ex parte*.

76. *No legal practitioner to appear.*—No legal practitioner shall appear, plead or act, on behalf of any party in any suit, or case before a Panchayati Adalat.

77. *Appearance in person or by representative.*—Subject to the provisions of section 86, any party to a suit, or case may appear before a Panchayati Adalat either in person or by such servant (not being a tout), partner, relation or friend authorised by him as the Panchayati Adalat may admit as a fit person to represent him.

78. *Special jurisdiction in matters compromised, etc.*—Notwithstanding anything contained in this Act or in any other law for the time being in force, it shall be lawful for a Panchayati Adalat to decide any civil dispute arising in its local area and not pending in any court in accordance with any settlement, compromise or oath agreed upon by the parties and likewise decide a case if compoundable.

79. *Procedure and power to ascertain truth.*—The Panchayati Adalat shall receive such evidence in a suit, or case as the parties may adduce and may call for such further evidence as, in their opinion, may be necessary for the determination of the points in issue. It shall be the duty of the Panchayati Adalat to ascertain the facts of every suit, or case before it by every lawful means in its power and thereafter to make such decree or order, with or without costs, as to it may seem just and legal. It may make local investigation in the village to which the dispute relates. It shall follow the procedure prescribed by or under this Act. The Code of Civil Procedure, 1908 (V of 1908), the Code of Criminal Procedure, 1898 (V of 1898) the Indian Evidence Act, 1872 (I of 1872), and the Indian Limitation Act, 1908 (IX of 1908), shall not apply to any suit, or case in a Panchayati Adalat except as provided in this Act or as may be prescribed.

80. *Majority to prevail.*—In the event of any disagreement between the Panches the opinion of the majority shall prevail.

81. *Power of Sub-Divisional Magistrate and Munsif over Panchayati Adalat.*—(1) If there has been a miscarriage of justice or if there is an apprehension of miscarriage of justice, in any case, or suit the Sub-Divisional Magistrate in respect of any case and the Munsif in respect of any suit may, on the application of any party or on his own motion, at any time in a pending case, or suit as the case may be and within sixty days from the date of a decree or order, call for the record of the case, or suit, as the case may be, from the Panchayati Adalat and may for reasons to be recorded in writing—

(a) cancel the jurisdiction of the Panchayati Adalat with regard to any suit, or case, or

(b) quash any decree or order passed by the Panchayati Adalat at any stage, or

(2) When an order has been passed by the Sub-Divisional Magistrate under sub-section (1) in respect of any case, trial, on complaint or otherwise in respect of the same offence, may be started in the court of a Magistrate having jurisdiction to try the case.

(3) When an order has been passed by a Munsif under sub-section (1) in respect of any suit, the plaintiff may institute a suit on the same cause of action and for the same relief in the court of the Munsif, and the period from the date of the institution of the suit before the Panchayati Adalat to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(4) Except as aforesaid, a decree or order passed by a Panchayati Adalat in any suit, case or proceeding under this Act shall be final and shall not be open to appeal or revision in any court.

If any application under sub-section (1) is frivolous, the applicant may be fined up to Rs. 50 by the Sub-Divisional Magistrate, or Munsif as the case may be.

**82. Issue of summons to witnesses.**—A Panchayati Adalat may, if it considers the evidence of, or the production of a document by, any person necessary in a suit, or case, issue and cause to be served in the prescribed manner, a summons on such person to compel his attendance or to produce or cause the production of such document, and such person shall be bound to comply with the direction contained in the summons.

**83. Penalties for failing to appear before a Panchayati Adalat.**—If any person who is summoned by a Panchayati Adalat by a written order to appear to give evidence or to produce any document before it, wilfully disobeys such summons or notice or order, the Panchayati Adalat may make a complaint to the Magistrate having jurisdiction and the said person shall be punishable with fine which may extend to twenty-five rupees:

Provided that no woman shall be compelled to appear in person before the Panchayati Adalat. She may be examined on commission in the manner prescribed:

Provided also that if a document is produced in obedience to a summons issued under this section, the Panchayati Adalat shall cause the document to be copied, mark the copy, after comparing with the original, to be true copy and return the original document to the person producing the same.

**84. Dismissal of suits, etc.**—A Panchayati Adalat may dismiss any suit after examining the plaintiff or the applicant if it is satisfied that the suit or proceeding is frivolous, vexatious or untrue.

**85. Revision.**—A revision from any order or decree passed by a Panchayati Adalat shall in a case lie to the Sub-Divisional Magistrate and in a suit to the Munsif having jurisdiction in the matter.

**86. Summons to defendant or accused persons.**—A Panchayati Adalat after an application is made under section 75 shall, unless it has been dismissed or otherwise disposed of under the provisions of this Act, cause summons in the prescribed form to be served in the prescribed manner on the defendant or the accused person or an opposite-party requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall at the same time direct the plaintiff or complainant or the applicant to attend and produce his evidence at such time and place.

**87. Warrant.**—If a Panchayati Adalat is satisfied that a person is evading the service of summons, it may issue a bailable warrant against him for a sum not exceeding twenty-five rupees.

**88. Payment or adjustment of decree to be recorded.**—If on the application of the decree-holder or the judgment-debtor, the Panchayati Adalat which passed the decree finds after enquiry that the decree has been satisfied wholly or in part, the Panchayati Adalat shall record the fact in the prescribed register.

**89. Execution of decrees.**—(1) A decree or order passed by a Panchayati Adalat shall be executed by it in such manner as may be prescribed. If the defendant's property is situated outside the jurisdiction of the Panchayati Adalat passing such decree or order, it may transfer the decree or order for execution in the prescribed manner to the Panchayati Adalat within whose jurisdiction the property may be situated, and if there be no such Panchayati Adalat then to the Court of the Munsif within whose jurisdiction it may be situated.

(2) If a Panchayati Adalat finds any difficulty in executing a decree, it may forward the decree to the Munsif, and the Munsif shall then execute the decree as if it were a decree passed by him.

90. *Recovery of fine.*—The fine imposed in a case by a Panchayati Adalat shall be recoverable in the manner provided in section 386 of the Code of Criminal Procedure, 1898 (V of 1898). But if the Panchayati Adalat finds any difficulty in its recovery, it may request the Sub-Divisional Magistrate within whose jurisdiction the Panchayati Adalat lies to recover it and he shall recover it as if the sentence of fine had been passed by him.

## CHAPTER VII

### EXTERNAL CONTROL

91. *Inspection.*—The Provincial Government may—

- (a) cause to be inspected any immovable property owned by a Gaon Sabha, used or occupied by a Gaon Panchayat or a joint committee, or any working progress under the direction of such Gaon Panchayat or joint committee,
- (b) by an order in writing call for and inspect a book or document in the possession or under the control of a Gaon Panchayat or a joint committee;
- (c) by an order in writing require a Gaon Panchayat or a joint committee to furnish such statements, reports or copies of documents, relating to the proceedings or duties of the Gaon Panchayat or such committee as it thinks fit;
- (d) record in writing for the consideration of a Gaon Panchayat or joint committee any observation which it thinks proper in regard to the proceedings or duties of such Gaon Panchayat or joint committee;
- (e) institute an enquiry in respect of any matter relating to a Gaon Sabha, Gaon Panchayat or Panchayati Adalat; and
- (f) institute any enquiry in respect of any matter relating to a Gaon Sabha, remove or suspend a member thereof if in the opinion of the Chief Commissioner such Gaon Panchayat, joint committee, Panchayati Adalat or member has abused its or his position or has continuously failed to perform the duties imposed by the Act or any rule made thereunder.

92. *Prohibition of certain proceedings.*—(1) The prescribed authority or any other officer specially empowered in this behalf by the Chief Commissioner on information received or on his own initiative, may, by order in writing, prohibit the execution or further execution of a resolution or order passed or made under this or any other enactment by a Gaon Sabha, Gaon Panchayat or a joint committee, or any officer or servant thereof if in his opinion such resolution or order is of a nature as to cause or likely to cause obstruction, annoyance or injury to the public or to any class or body of persons lawfully employed, or danger to human life, health or safety, or riot or affray. It may prohibit the doing or continuance by any person of any act in pursuance of or under cover of such resolution or order.

(2) Where an order is made under sub-section (1) a copy thereof, with a statement of the reasons for making it shall forthwith be forwarded by the prescribed authority or the aforesaid officer to the Chief Commissioner which may after calling for an explanation from the Gaon Sabha, Gaon Panchayat, joint committee or the officer or servant thereof and considering the explanation if any, made by it, rescind, modify or confirm the order.

(3) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section (1) and continuing in force, it shall be the duty of the Gaon Sabha, Gaon Panchayat or the joint committee or any officer or servant thereof, if so required by the authority making such order to take any action which it would have been entitled to take, if the resolution or order had never been made or passed and which is necessary for preventing any person from doing or continuing to do anything under cover of the resolution or order of which the further execution is prohibited.

93 The Chief Commissioner may delegate all or any of his powers under this Act to any officer or authority subordinate to him subject to such conditions and restrictions as it may deem fit to impose.

## CHAPTER VIII

### PENALTIES AND PROCEDURE

94 *Penalty for infringement of the provisions of the Act.*—Whoever contravenes any provision of this Act, shall be punishable, unless otherwise prescribed, with fine, which may extend to ten rupees, and when the breach is a continuing one with a

further fine which may extend to one rupee for every day after the first conviction during which an offender is proved to have persisted in the offence.

95. *Infringement of rules and by-laws.*—In making a rule the Chief Commissioner and in making a by-law the Gaon Panchayat may, with the sanction of the prescribed authority, direct, that a breach of it shall be punishable with fine which may extend to ten rupees, and when the breach is a continuing one with a further fine which may extend to one rupee for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

96. *Penalty for tampering with the Gaon Panchayat's property.*—(1) Whoever removes, displaces or makes an alteration in or otherwise interference with any pavement, gutter or other material of a public street, or any fence wall or post thereof, or a lamp post or bracket, direction post, standpost, hydrant, or other such property of the Gaon Sabha without the written sanction of the Gaon Panchayat or other lawful authority shall be punishable with fine which may extend to ten rupees.

(2) If through any act, neglect, or default on his part, a person has incurred a penalty imposed by sub-section (1) and has caused any damage to the property of a Gaon Sabha, the person incurring such penalty shall be liable to make good such damage as well as to pay such penalty, and the damages may be recovered from the offender in the prescribed manner.

97. *Disobedience to notice issued.*—If a notice has been given to a person under the provisions of this Act or of any rule or by-law made thereunder to a person requiring him to execute a work in respect of any property, moveable or immovable, public or private, or to provide or do or refrain from doing anything within a time specified in the notice, and such person fails to comply with the notice, then—

- (a) the Gaon Panchayat may cause such work to be executed or such thing to be provided or done, and may recover all expenses incurred by it on such account from the said person in the prescribed manner;
- (b) such person shall also be liable on conviction before a magistrate, to a fine which may extend to ten rupees and in case of continuing breach, of a further fine which may extend to one rupee for each day after the date of the first conviction during which the offender is proved to have persisted in the offence.

98. *Notice not to be invalid.*—No notice shall be invalid on account of any defect or omission in its form.

99. *Appeals.*—(1) Any person aggrieved by an order or direction made by a Gaon Panchayat under the Act or under any rule or by-law may unless otherwise prescribed, within 30 days from the date of such direction or order, exclusive of the time requisite for obtaining a copy thereof appeal to the prescribed authority which may vary, set aside or confirm the said order or direction and may also award costs to or against the person filing the appeal.

(2) The prescribed authority may, if it thinks fit, extend the period allowed by sub-section (1) for appeal.

(3) The decision of the prescribed authority under sub-section (1) shall be final and shall not be questioned in any court of law.

100. *Suspension of prosecution in certain cases.*—When an appeal has been filed against an order or direction in section 102 any proceeding to enforce such order or direction and any prosecution for the breach thereof may, by order of the prescribed authority, be suspended pending the decision of the appeal, and if such order or direction is set aside on appeal, disobedience thereof shall not be deemed to be an offence.

101. *Power to compound offences.*—(1) Subject to any rule made in this behalf a Gaon Panchayat may, either before or after the institution of any case, compound an offence against this Act or any rule or by-law made thereunder on payment of such sum in cash to the Gaon Panchayat as may be prescribed.

(2) When an offence has been compounded the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

All sums paid by way of composition under this section shall be credited to the Panchayat's Fund.

102. *Entry and inspection.*—The Sarpanch of the Gaon Panchayat and, if authorized in this behalf by the Gaon Panchayat, any other member, officer or servant of the Gaon Panchayat may enter into or upon any building or land, with or without assailants or workmen, in order to make an inspection or survey or to execute a work which a Gaon Panchayat is authorized by this Act or by rules or by-laws made thereunder, to make or execute, or which it is necessary for a Gaon Panchayat for any of the purposes or in pursuance of any of the provisions of this Act or of rules or by-laws, to make or execute:

Provided that—

- (a) except when it is in this Act or rules or by-laws otherwise expressly provided no such entry shall be made between sunset and sunrise, and
- (b) except when it is in this Act or in rules or by-laws otherwise expressly provided, no building which, is used as a human dwelling shall be so entered except with the consent of the occupier thereof and without giving the said occupier not less than four hours' previous written notice of the intention to make such entry, and
- (c) sufficient notice shall in every instance be given even when any premises can otherwise be entered without notice to enable the inmates of an apartment appropriated for females to remove to some part of the premises where their privacy shall not be disturbed, and
- (d) due regard shall always be had to the social and religious usages of the occupants of the premises entered

103. *Suits against Gaon Panchayats or its officer.*—(1) No suit or other legal proceeding shall be instituted against a Gaon Sabha or a Gaon Panchayat or against a member, officer or servant of the Gaon Panchayat or against any person acting under its or his direction for any thing done or purporting to have been done in his official capacity under this Act, until the expiration of two months next after notice in writing has been, in the case of a Gaon Panchayat delivered in or left at the office of the Panchayat and in the case of a member, officer or servant or any person acting under his direction or the direction of the Gaon Panchayat delivered to him or left at his office or place of abode, explicitly stating the cause of action, the nature of the reliefs sought, the amount of compensation, if any, claimed, and the name and place of abode of the intending plaintiff and the plaint shall contain a statement that such notice has been so delivered or left.

(2) No action such as is described in sub-section (1) shall be commenced otherwise than within six months next after the accrual of the cause of action.

104. *Protection to Gaon and Panchayati Adalat.*—(1) The provisions of the Judicial Officer's Protection Act, 1850 (XVIII of 1850), shall apply to the members of Panchayati Adalat.

(2) No suit or prosecution shall be entertained in any court against a Gaon Panchayat or any member or officer thereof or any person acting under its or his direction in respect of anything in good faith done or intended to be done under this Act or any rule or by-laws made thereunder.

105. *Power and duties of Police in respect of offences and assistance to Panchayats.*—Every police officer shall give immediate information to the Gaon Panchayat of an offence coming to his knowledge which has been committed against this Act or any rule or by-law made thereunder and shall assist all members and servants of the Gaon Panchayat and Panchayati Adalat in the exercise of their lawful authority.

106 If any dispute arises between two or more Gaon Panchayats or between a Gaon Panchayat and the town area or a municipal board it shall be referred to the prescribed authority whose decision shall be final and shall not be questioned in any court of law.

## CHAPTER IX

### RULES, BY-LAWS AND REPEALS

107. *Power of provincial Government to make rules.*—(1) The Chief Commissioner may, subject to the condition of previous publication by notification in the official Gazette, make rules consistent with this Act to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for—

- (i) any matter for which power to make provision is conferred expressly or by implication on the Chief Commissioner by this Act;
- (ii) the establishment of Gaon Sabha, Gaon Panchayat and Panchayati Adalats;
- (iii) the time and place of the meetings of Gaon Sabha, Gaon Panchayat and Panchayati Adalats, the manner of convening meetings and giving notice thereof;
- (iv) the conduct of proceedings including the asking of questions by members of meetings and the adjournment of meetings and also minute books of meetings;
- (v) the establishment of committees and the determination of all matters relating to the constitution and procedure of such committees;
- (vi) the suspension and removal of office-bearers;
- (vii) the records and registers that shall be maintained by Gaon and Panchayati Adalats and the form in which they are to be;
- (viii) the action to be taken on the occurrence of a vacancy in the executive committee, joint committee, any other committee and Panchayati Adalats;
- (ix) the authority by which disputes in relation to appointments to executive committee, joint committee any other committee or Panchayati Adalat may be decided and the procedure to be followed therein;
- (x) the amount and nature of security to be furnished by a servant of the Gaon Panchayat from whom it is deemed expedient to require security;
- (xi) appointment, qualification, dismissal, discharge, removal and punishment of the servants of Gaon Panchayat and their right of appeal;
- (xii) management and regulation of provident fund for the servants of Gaon Panchayats if the system of provident fund is adopted by any Gaon Panchayat;
- (xiii) the establishment, maintenance and management of primary schools and the construction and repair of buildings thereof;
- (xiv) the establishment, administration and control of libraries, reading rooms, dispensaries entrusted to a joint committee, the construction and repairs of buildings connected therewith and the supply of medicine and medical assistance to the poor inhabitants of the local area of a Gaon Sabha;
- (xv) the discovery, removal and destruction of water hyacinth on any land, premises or water the construction of fences and barriers for checking its movements and the cost incurred in carrying out such work;
- (xvi) action in regard to the sanitation, conservancy, drainage, buildings, public streets and water supply and the prohibition of public nuisance;
- (xvii) the framing of budgets and ear-making fund for specific purposes;
- (xviii) the returns to be submitted by Gaon Panchayats and Panchayati Adalats the form in which they are to be, the authorities to which and the time when they shall be submitted;
- (xix) the levy of taxes and licence fees, the authority, by which and the manner in which the taxes may be assessed and the authority to which an appeal from an assessment order may be made.
- (xx) the method and time of payment of taxes and other dues, the procedure of recovery and the authority whose assistance may be taken by Gaon Panchayats in the recovery of taxes and dues;
- (xxi) the method of account keeping by Gaon Panchayats;
- (xxii) the maintenance of public buildings and nazul land; as defined in rule 1 (a) of the Rules relating to nazul properties;
- (xxiii) the formalities to be observed when transferring any property and the manner in which a deed of contract may be executed by a Gaon Panchayat;
- (xxiv) powers of auditors inspecting and superintending authorities to hold inquiries, summoning and examining witnesses, compelling the production of documents and all other matters connected with audit, inspection and superintendence;

- (xxv) the issue, service or execution of summons, notices and other processes of Panchayati Adalat and issue and service of notices by Gaon Panchayats;
- (xxvi) the transfer by a Panchayati Adalat of summons and other processes to another Panchayati Adalat or any court for service or execution;
- (xxvii) the fees to be levied by Panchayati Adalats for institution of suits and cases, for issue of processes, for obtaining copies of documents and other matters;
- (xxviii) the court-fees and other fees payable where a Panchayati Adalat, with the consent of parties, entertains a suit which is otherwise beyond its jurisdiction;
- (xxix) the procedure for execution of decrees orders and sentence passed by Panchayati Adalats;
- (xxx) the allotment by Gaon Panchayats of funds for the performance by Panchayati Adalats of their duties under this Act and the extent to which fees paid to Panchayati Adalats may be appropriated by Gaon Panchayats;
- (xxxi) the powers that may be exercised by any prescribed authority in the discharge of their obligations under this Act and the manner in which such powers may be exercised;
- (xxxii) the procedure to be observed in the making of by-laws by prescribed authority for Gaon Panchayats or by Gaon Panchayats,
- (xxxiii) the printing of the prescribed forms and registers;
- (xxxiv) the submission for approval of plans, designs, specifications and estimates;
- (xxxv) the duties, powers and functions of village valunteer force;
- (xxxvi) the submission of annual reports by Gaon Panchayats and their review;
- (xxxvii) persons, other than members of Gaon Panchayats, who may be present in any advisory capacity in meetings of Gaon Panchayats;
- (xxxviii) channel of correspondence between a Gaon Panchayat and other authorities;
- (xxxix) disposal of assets and liabilities of a Gaon Panchayat on its abolition;
- (xl) the action to be taken on the inclusion of the whole or part of the local area of any Gaon Panchayat in any municipality, notified area, town area or cantonment, and the manner in which the assets and liabilities of the Gaon Panchayat may be disputed of in such circumstances;
- (xli) the conditions subject to which sums due to a Gaon Panchayat may be written off as irrecoverable, and the conditions subject to which the whole or any part of a fee may be remitted; and generally for the guidance of Gaon Panchayats, Panchayati Adalats, joint committees, other committees, servants of the Crown and other authorities in any matter connected with the carrying out of the provisions of this Act;
- (xlii) the regulation of the election of the members of the Gaon Panchayat in order to secure the adequate representation of the Scheduled Castes.

108. *Powers of district boards to frame by-laws.*—The prescribed authority may, and when required by the Chief Commissioner, shall make by-laws for a Gaon Panchayat within its jurisdictions consistent with the Act and the rules made thereunder for the purpose of promoting or maintaining the health, safety and convenience of persons residing within the jurisdiction of a Gaon Panchayat and for furtherance of administration of Gaon Panchayats under this Act.

109. *Power of Gaon Panchayats to frame by-laws.*—(1) Subject to the provisions of this Act and the rules made thereunder and the by-laws, if any, made by the prescribed authority, a Gaon Panchayat may frame by-laws.—

- (a) to prohibit the removal or use of water for drinking purposes from any source which is likely to cause danger to health and to prohibit the doing of anything likely to contaminate any source of drinking water;
- (b) to prohibit or regulate the discharge of water from any drain or premises on a public street or into a river, pond, tank, well or any other place;

- (c) to prevent damage to public streets and Gaon Panchayat property;
- (d) to regulate sanction, conservancy and drainage in the area of Gaon Panchayats;
- (e) to prohibit or regulate the use of public streets or other public places by shop-keepers or other individuals or collection of market tolls on public streets;
- (f) to regulate the manner in which tanks, ponds and cesspools, pasture land, playground, manure pits, land for disposal of dead bodies and bathing places shall be maintained and used.

(2) The draft of by-laws framed by Gaon Panchayats shall be published in the prescribed manner. Any objections received thereto shall be considered at a meeting of the Gaon Panchayat and the by-laws shall then be submitted together with the objections, if any, received and the decisions taken thereon to the prescribed authority. The by-laws as sanctioned by the prescribed authority shall come into force after they have been published in the prescribed manner.

#### SCHEDULE

(See section 68)

Description of suits	Period of limitation	Time from which period begins to run
1. For money due on a contract.	3 years	When the money became due to the plaintiff.
2. For the recovery of movable property or the value thereof	Do. ..	When the plaintiff became entitled to the delivery of the movable property.
3. For compensation for wrongfully taking or injuring a movable property.	Do. ..	When the movable property was wrongfully taken or when injury was done to it.
4. For damages caused by cattle trespass.	6 months	When the damage was caused by the cattle trespass.

[No. 196-J.]

New Delhi, the 12th September 1951

**S.R.O. 1430.**—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government hereby extends to the State of Vindhya Pradesh the Madhya Pradesh Public Security Measures Act, 1950 (Madhya Pradesh Act XXIII of 1950), as at present in force in the State of Madhya Pradesh, subject to the following modifications:—

#### Modifications

1. Throughout the Act—
  - (a) except in the short title for the words "Madhya Pradesh" the words "Vindhya Pradesh" shall be substituted.
  - (b) for the words "State Government" except in clauses (a) and (b) of section 6 the words "Chief Commissioner" shall be substituted.
  - (c) for the words "High Court" the words "Court of the Judicial Commissioner" shall be substituted.
2. For sub-section (3) of section 1, the following shall be substituted, namely:—
 

"(3) It shall remain in force for a period of one year in the first instance and the Chief Commissioner may extend it by notification in the Official Gazette, for a further period of one year."
3. Sub-section (7) of section 4 shall be omitted.
4. In clauses (a) and (b) of sub-section (2) of section 6, the words "forfeited to the State Government" shall stand unmodified.
5. In items (i) and (ii) of sub-section (1) of section 6, sub-section (1) of section 8 and clauses (a) and (b) of sub-section (1) and clause (a) of sub-section (3) of section 11, for the words "it may" the words "he may" shall be substituted.



6. In clause (c) of sub-section (1) and clauses (b) and (d) of sub-section (3) of section 11, the words "State Government" shall stand unmodified.
7. In section 14 for the word "it" the word "him" shall be substituted.
8. In sections 18, 19, 20 and 21 for the words "the Code" the words "the Code of Criminal Procedure, 1898" shall be substituted.
9. Section 28 shall be omitted

#### *Annexure*

The Madhya Pradesh Public Security Measures Act, 1950 (Madhya Pradesh Act XXIII of 1950) as in force at present in the State of Madhya Pradesh and with modifications made by this notification.

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## MADHYA PRADESH ACT No. XXIII of 1950

THE MADHYA PRADESH PUBLIC SECURITY MEASURES ACT, 1950  
(XXII OF 1950)

**An Act to provide for the security of the State, maintenance of public order and for certain other purposes connected therewith**

**Preamble.**—Whereas it is expedient to provide for the security of the State, maintenance of public order and for certain other purposes;

It is hereby enacted as follows:—

## CHAPTER I.—PRELIMINARY

1. **Short title, extent and duration.**—(1) This Act may be cited as the Madhya Pradesh Public Security Measures Act, 1950.

(2) It extends to the whole of Vindhya Pradesh.

(3) It shall remain in force for a period of one year in the first instance and the Chief Commissioner may extend it by notification in the Official Gazette, for a further period of one year.

## CHAPTER II.—RESTRICTION OF MOVEMENTS AND ACTIONS OF PERSONS

2. **Power to make restriction order.**—(1) If the Chief Commissioner or a District Magistrate is satisfied with respect to any person that he is acting or is likely to act in a manner prejudicial to the security of the State or to the maintenance of public order, and that, in order to prevent him from so acting it is necessary to make an order under this section (hereinafter referred to as "restriction order"), the Chief Commissioner or the District Magistrate, as the case may be, may make an order—

- (a) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or persons as may be specified therein, he shall not be in any such area or place in Vindhya Pradesh as may be specified in the order;
- (b) requiring him to reside or remain in such place or within such area in Vindhya Pradesh as may be specified in the order and if he is not already there to proceed to that place or area within such time as may be specified in the order;
- (c) requiring him to notify his movements or to report himself or both to notify his movements and report himself in such manner, at such times and to such authority or person as may be specified in the order;
- (d) imposing upon him such restrictions as may be specified in the order, in respect of his association or communication with other persons, and in respect of his activities in relation to the dissemination of news or propagation of opinion;
- (e) prohibiting or restricting the possession or use by him of any such article or articles as may be specified in the order;

Provided that no restriction order of the nature mentioned in clause (d) shall be made unless the Chief Commissioner or the District Magistrate, as the case may be, is satisfied that the person is acting, or is likely to act, in a manner prejudicial to the security of the State.

(2) No restriction order shall be made directing the exclusion or removal from the State of any person ordinarily resident in the State and no such order made by the District Magistrate shall direct exclusion or removal from the district of any person already resident in that district.

(3) No restriction order shall be operative for more than—

- (a) one month, if made by a District Magistrate; or
- (b) one year, if made by the Chief Commissioner.

(4) If any person is found in any area or place in contravention of a restriction order or fails to leave any area or place in accordance with the requirements of such an order, then, without prejudice to the provisions of sub-section (5), he may be removed from such area or place by any police officer.

(5) If any person contravenes the provisions of any restriction order, he shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both.

**3. Issue of fresh order only by Chief Commissioner.**—The revocation of any restriction order shall not operate to forbid the making of a fresh restriction order:

Provided that any such fresh order shall be made only by the Chief Commissioner.

**4. Disclosure of grounds for the restriction order and constitution of Advisory Council.**—(1) As soon as may be after a restriction order is made, the authority making the order shall communicate to the person against whom the order is passed, so far as such communication can be made without disclosing facts which it considers against the public interest to disclose, the grounds on which the order has been made and such other particulars as are in its opinion sufficient to enable him to make a representation to the Chief Commissioner against the order, and inform him of his right to make such representation and afford him the earliest opportunity of doing so.

(2) Where a representation against a restriction order has been received, the Chief Commissioner shall, as soon as may be, place it before the Advisory Council constituted under sub-section (3) together with the grounds on which this order has been made.

(3) The Chief Commissioner shall constitute an Advisory Council consisting of three persons, one of whom shall be its Chairman. The Chairman and the members of the Council shall be appointed by the Chief Commissioner.

(4) The Advisory Council shall, after considering the material placed before it and, if necessary, after calling for such further information from the Chief Commissioner or from the person concerned as it may deem necessary, submit its report within 30 days from the date on which a representation is placed before it to the Chief Commissioner.

(5) After considering the report of the Advisory Council, the Chief Commissioner may confirm, modify or cancel the restriction order.

(6) All particulars contained in any correspondence between the Chief Commissioner and the Advisory Council and the report made by the Advisory Council shall be confidential, and notwithstanding anything contained in any law for the time being in force no court shall be entitled to require any public servant to produce before it any of the aforesaid documents.

**5. Punishment for unlawful possession of corrosive substance, etc.**—Any person who carries on his person or knowingly has in his possession or under his control any corrosive substance or liquid, under such circumstances as to give rise to a reasonable suspicion that he does not carry on his person or have it in his possession or under his control for a lawful object, shall, unless he can show that he was carrying it on his person or that he had it in his possession or under his control for a lawful object, be punishable with imprisonment for a term which may extend to seven years, to which fine may be added.

**6. Control of publications.**—(1) If the Chief Commissioner is satisfied that the bringing into, sale, distribution, circulation, publication or printing of any matter relating to a particular subject or class of subjects will undermine the security of the State or tends to overthrow the State—

(i) He may, by order in writing, prohibit either absolutely or for a specified period the bringing into, or sale or distribution or circulation within the State, of any newspaper, periodical, book or document specified in the order; or

(ii) He may, by order in writing, addressed to a printer, publisher or editor, or the printers, publishers or editors generally—

(a) prohibit, either absolutely or for a specified period, the printing or publication of any matter relating to such subject or class of subjects in any particular issue or issues of a newspaper or a periodical or any other book or document;

(b) prohibit or regulate the making or publishing of any document or class of documents or of any matter relating to such subject or class of subjects;

(c) prohibit or regulate the use of any press

(2) (a) If any person contravenes any order made under sub-section (1), then without prejudice to any other proceeding which may be taken against such person, the State Government may declare to be forfeited to the State Government any copy of any newspaper, periodical, book or document brought, sold, distributed, circulated, printed, published or made in contravention of the order.

(b) If such newspaper, periodical, book or document was printed at a press within the State, the State Government may also direct such press to be forfeited to the State Government.

(3) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

(4) Any person having an interest in any press in respect of which an order of forfeiture has been made under sub-section (2) may, within two months from the date of such order, apply to the Court of the Judicial Commissioner to set aside such order and the Court of the Judicial Commissioner shall decide if the order of forfeiture was made properly within the power conferred under sub-section (2). Every such application shall be heard and decided in accordance with the procedure followed in applications made under section 23 of the Indian Press (Emergency Powers) Act, 1931 (XXXIII of 1931).

#### CHAPTER III.—COLLECTIVE FINES

**7. Imposition of collective fines on inhabitants of area.**—(1) If it appears to the Chief Commissioner that the inhabitants or any class or section of inhabitants of any area are concerned in or are abetting the commission of offences resulting or likely to result in death or grievous hurt or loss of or damage to property, or are harbouring persons concerned in the commission of such offences or are failing to render all the assistance in their power to discover or apprehend the offenders, or are suppressing material evidence of the commission of such offences, the Chief Commissioner may, by notification, impose a collective fine on such inhabitants or class or section of inhabitants of that area:

Provided that an imposition of a collective fine by any authority to whom the power may have been delegated under this Act may be made by publication of the order imposing the fine in any such manner as such authority may consider best calculated to bring the order to the notice of the inhabitants of the area concerned.

(2) The Chief Commissioner or any officer empowered in this behalf by the Chief Commissioner by general or special order may exempt any such inhabitant or class or section of such inhabitants from liability to pay any portion of such fine.

(3) The District Magistrate, after such inquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable collectively to pay it and such apportionment shall be made according to the District Magistrate's judgment of the respective means of such inhabitants.

(4) In making the apportionment, the District Magistrate may fix the portion to be paid by a joint or undivided family.

(5) The portion of such fine made payable by any inhabitant or joint or undivided family may be recovered—

(a) in the manner provided by the Code of Criminal Procedure, 1898<sup>1</sup> (V of 1898), for the recovery of fines imposed by a Court, as if such portion were a fine imposed by a Court:

Provided that the Chief Commissioner may, in lieu of the rules referred to in sub-section (2) of section 386 of the Code of Criminal Procedure, 1898 (V of 1898), make rules under this Act regulating the manner in which warrants under clause (a) of sub-section (1) of the said section of the said Code are to be executed, and for the summary determination of any claims made by any person other than the person liable to pay the fine in respect of any property attached in execution of the warrant; or

(b) as arrears of land revenue.

#### CHAPTER IV.—PUBLIC SAFETY AND ORDER

**8. Control of camps, drill or parade.**—(1) If the Chief Commissioner is satisfied that it is necessary in the interest of public order to do so, he may, by general or special order, prohibit or restrict in any area holding of camps or any exercise, movement, evolution or drill of a military nature specified in the order.

(2) Any contravention of an order made under this section shall be punishable with imprisonment which may extend to one year or with fine or with both.

**9. Control of uniforms.**—(1) If the Chief Commissioner is satisfied that—

(a) the wearing in public of any dress or article of apparel resembling any uniform or part of a uniform required to be worn by a member of the armed forces of the Union or by a member of any Police Force or of any force constituted under any law for the time being in force;

(b) the wearing or display in public of any distinctive dress or article of apparel or any emblem;

would be likely to prejudice the public safety, the maintenance of order or the preservation of peace and tranquillity, the Chief Commissioner may, by general or special order, prohibit or restrict the wearing or display in public of any such dress, article of apparel or emblem.

(2) For the purposes of this section, a dress, an article of apparel or an emblem shall be deemed to be worn or displayed in public if it is worn or displayed so as to be visible to a person in any place to which the public have access.

(2) If any person contravenes any order made under sub-section (1), he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

**10. Power to prohibit or restrict use of road, pathway, etc.**—(1) The Chief Commissioner may, by order, prohibit or restrict for such period as may be specified in the order,—

(a) the use of any road, pathway or waterway;

(b) the passage of any person, animal or vehicle over any land.

(2) If any person contravenes any order made under sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

**CHAPTER V.—REQUISITION AND ACQUISITION OF PROPERTY**

**11. Requisition or acquisition of property.**—(1) (a) If, in the opinion of the Chief Commissioner, it is necessary or expedient so to do for the security of the State or the maintenance of public order, he may, by order in writing, requisition any property, movable or immovable, and may make such further orders as appear to it to be necessary or expedient in connection with such requisitioning:

Provided that no property used for the purpose of religious worship shall be requisitioned under this section.

(b) Where the Chief Commissioner has requisitioned any property under clause (a), he may use or deal with it in such manner as may appear to it to be expedient and may acquire it by serving on the owner thereof or where the owner is not readily traceable or the ownership is in dispute, by publishing in the Gazette, a notice stating that the Chief Commissioner has decided to acquire it in pursuance of this section.

(c) Where a notice of acquisition is served on the owner of the property or published in the Gazette under clause (b) then at the beginning of the day on which the notice is so served or published, the property shall vest absolutely in the State Government free from all encumbrances and the period of the requisition thereof shall end

(2) (a) Whenever, in pursuance of sub-section (1), any property is requisitioned or acquired there shall be paid compensation determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(i) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(ii) where no such agreement can be reached the Chief Commissioner shall appoint as arbitrator the District Judge or the Additional District Judge or any Civil Judge having jurisdiction over the area in which the property or any portion thereof was requisitioned at the time of requisition or acquisition, as the case may be;

(iii) the Chief Commissioner may, in any particular case, nominate a person having expert knowledge as to the nature of the property acquired, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;

- (iv) at the commencement of the proceedings before the arbitrator, the Chief Commissioner and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;
- (v) the arbitrator in making his award shall, in the case of movable property, have regard to the market price of such property and in the case of immovable property, have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (I of 1894), so far as the same can be applicable, and whether the acquisition is of a permanent or temporary character:

Provided that where any property requisitioned is subsequently acquired, the arbitrator in any proceedings in connection with such acquisition shall, for the purpose of the provisions of the said section, take into consideration the market value of the property on the date of its requisition as aforesaid and not at the date of its subsequent acquisition;

- (vi) an appeal shall lie to the Court of the Judicial Commissioner against the award of an arbitrator;
- (vii) save as provided in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section.

(b) The Chief Commissioner may make rules for the purpose of carrying into effect the provisions of this section.

(c) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (i) the procedure to be followed in arbitrations under this section; and
- (ii) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal.

(3) (a) Where any property requisitioned under sub-section (1) is to be released from requisition, the Chief Commissioner may, after such enquiry, if any, as he may, in any case consider it necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given.

(b) The delivery of possession of the property to the person specified in an order under clause (a) shall be a full discharge of the Chief Commissioner from all liabilities in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled according to law to enforce against the person to whom possession of the property is given.

(c) Where the person to whom possession of any immovable property requisitioned under sub-section (1) is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf the Chief Commissioner shall cause a notice declaring that such property is released from requisition to be affixed on some conspicuous part of such property and publish the notice in the Gazette.

(d) When a notice referred to in clause (c) is published in the Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the Chief Commissioner shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(4) The Chief Commissioner may, with a view to requisitioning any property under sub-section (1) or determining the compensation payable under sub-section (2), by order—

- (a) require any person to furnish to such authority, as may be specified in the order, such information in his possession relating to the property as may be so specified;
- (b) direct that the owner, occupier or person in possession of the property shall not without the permission of the Chief Commissioner dispose of it, or where the property is a building, structurally alter it, or where the property is an industrial undertaking remove any machinery, plant, or any other thing necessary to run it, till the expiry of such period as may be specified in the order.

*Explanation.*—For the purpose of this section “industrial undertaking” shall mean—

- (i) any concern engaged in the manufacture or production of any article, or the supply or distribution of light, power or water, or the supply or maintenance of any form of mechanised transport; or
- (ii) any concern engaged in installing equipment or erecting premises for the purposes of or preparing and producing designs for or testing the products of any concern of the nature specified in sub-clause (i); or
- (iii) any training establishment.

(5) The Chief Commissioner may authorise any person to enter any premises and inspect such premises and any property therein or thereon for the purpose of determining whether and if so, in what manner, an order under this section should be made in relation to such premises or property or with a view to securing compliance with any order made under this section.

(6) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

## CHAPTER VI. SPECIAL COURTS

**12. Special Courts.**—The Chief Commissioner may, by notification, constitute Special Courts of criminal jurisdiction for such areas as may be specified in the notification.

**13. Special Judge.**—The Chief Commissioner may appoint as a Special Judge to preside over a Special Court constituted under section 12 any person who has, for a period of not less than two years, exercised the powers of a Sessions Judge or an Additional Sessions Judge under the Code of Criminal Procedure 1898 (V of 1898), hereinafter referred to as the Code.

**14. Jurisdiction of Special Judge.**—A Special Judge shall try such offences or classes of offences or such cases or classes of cases as the Chief Commissioner or any officer authorised by him in this behalf may, by general or special order in writing, direct.

**15. Procedure of Special Judge.**—(1) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial.

(2) Save in cases of trials of offences punishable with death or transportation for life, it shall not be necessary in any trial for a Special Judge to take down the evidence at length in writing, but the Special Judge shall record a memorandum of substance of what each witness deposes and such memorandum shall be signed by the Special Judge and shall form part of the record.

(3) A Special Judge may refuse to summon any witness if satisfied after the examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interest of justice.

(4) In matters not coming within the scope of sub-sections (1), (2) and (3), the provisions of the Code, in so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Judge; and for the purposes of those provisions the Court of a Special Judge shall be deemed to be a Court of Sessions.

**16. Evidence on commission.**—If a person whose evidence is considered essential by a Special Judge is, in his opinion, not in a position to attend to give evidence, the Judge may direct that his evidence shall be recorded on commission by a person specially deputed for the purpose.

**17. Sentence by Special Judge.**—A Special Judge may pass any sentence authorised by law.

**18. Recovery of fines.**—Notwithstanding anything contained in section 386 of the Code of Criminal Procedure 1898, where any person has been sentenced to fine by a Special Judge appointed under this Act, the fine may be recovered by warrant directing levy of the amount of the fine by attachment and sale of any property, movable or immovable, of such person.

19. **Appeal and revision.**—Notwithstanding the provisions of any law for the time being in force, or of anything having the force of law by whatsoever authority made or done—

- (1) any person convicted by a Special Judge may appeal to the Court of the Judicial Commissioner within a period of fifteen days from the date of sentence;
- (2) the Court of the Judicial Commissioner may call for the record of the proceedings of any case tried by a Special Judge under this Act and may in respect of such case exercise any of the powers conferred on a Court of Appeal by sections 423, 426, 427 and 428 of the Code of Criminal Procedure 1898:

Provided that where an order for retrial of the case under section 423 of the Code of the Criminal Procedure 1898 is passed, the trial shall be by a Special Judge appointed under section 13; and

- (3) no Court shall have jurisdiction to transfer any case from any Special Judge or to make any order under section 491 of the Code of the Criminal Procedure 1898 in respect of any person triable by a Special Judge, or save as herein otherwise provided have jurisdiction of any kind in respect of any proceedings of any Special Judge.

20. **Trials by Special Judge not to be by jury or with assessors.**—Notwithstanding anything contained in the Code of Criminal Procedure 1898, no trial before a Special Judge shall be by jury or with the aid of assessors.

21. **Application of general law.**—The provisions of the Code of Criminal Procedure 1898 and of any other law for the time being in force in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act shall apply to all matters connected with, arising from, or consequent upon, a trial held by a Special Judge appointed under this Act.

## CHAPTER VII. SUPPLEMENTAL

22. **Delegation of powers and duties of Chief Commissioner.**—The Chief Commissioner may, by order, direct that any power or duty which is conferred or imposed on the Chief Commissioner by this Act, shall in such circumstances and under such conditions, if any, as may be specified in that direction be exercised or discharged by any officer or authority subordinate to it.

23. **Rules.**—The Chief Commissioner may, after previous publication, make rules to carry out the purposes of this Act.

24. **Penalty for attempt to commit offence.**—Whoever attempts to commit an offence punishable under this Act or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with the punishment provided for the offence.

25. **Indemnity.**—No suit, prosecution or other legal proceedings whatsoever shall lie against any person for or on account of or in respect of any sentence passed or any act ordered or done by him, in good faith whether in exercise of any jurisdiction or power conferred or purporting to have been conferred on him by or under this Act or in carrying out any sentence passed by a Special Judge in exercise of any such jurisdiction or power as aforesaid.

26. **Application of other laws not barred.**—The provisions of this Act shall be in addition to and not in derogation of any other Act, Ordinance or Regulation for the time being in force.

27. **Power to arrest without warrant.**—Any police officer may arrest without warrant any person who is reasonably suspected of having committed an offence punishable under this Act.



## MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 18th September, 1951

**S.R.O. 1431.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Banking Companies (Legal Practitioners' Cheats' Accounts) Act, 1949 (XLVI of 1949), the Central Government hereby appoints the 1st day of October 1951, as the date on which the said Act shall come into force in the State of Punjab.

[No. D.4701-FI/51.]

S. K. SEN, Dy. Secy.

New Delhi, the 14th September, 1951

**S.R.O. 1432.**—In exercise of the powers conferred by the proviso to Article 309 and clause (5) of Article 148 of the Constitution, the President after consultation with the Comptroller and Auditor General hereby directs that the following further amendments shall be made in the Contributory Provident Fund Rules (India), namely:—

In the said Rules—

1. In rule 7, for sub-rule (1), the following sub-rule shall be substituted, namely:—

"(1) Every subscriber shall subscribe monthly to the Fund when on duty or foreign service but not during a period of suspension:

Provided that a subscriber on reinstatement after a period passed under suspension shall be allowed the option of paying in one sum, or in instalments, any sum not exceeding the maximum amount of arrears of subscriptions permissible for that period."

2. In rule 10—

(a) To sub-rule (1), the following further proviso shall be added, namely:—

"Provided further that no contribution shall be payable in respect of any period for which the subscriber is permitted under the Rules not to, or does not, subscribe to the Fund."

(b) After sub-rule (4) the following sub-rule shall be inserted, namely:—

"(5) Should a subscriber elect to pay arrears of subscriptions in respect of a period of suspension, the emoluments or portion of emoluments which may be allowed for that period on reinstatement, shall, for the purpose of this rule, be deemed to be emoluments drawn on duty."

(c) Existing sub-rules (5) and (6) shall be re-numbered as sub-rules (6) and (7) respectively.

[No. F.42(15)-EV/51.]

V. S. KRISHNASWAMI, Dy. Secy.

## MINISTRY OF FINANCE (REVENUE DIVISION)

### DAGEROUS DRUGS

New Delhi, the 14th September, 1951

**S.R.O. 1433.**—In pursuance of sub-clause (ii) of clause (g) of section 2 of the Dangerous Drugs Act, 1930 (II of 1930), and the Protocol signed at Paris on the 19th November 1948, supplementing the Geneva Convention, the Central Government hereby declares the narcotic substances specified in this notification to be manufactured drugs and directs that the following further amendment shall be made in the notification of the Government of India in the late Finance Department (Central Revenues), No. 2-Dangerous Drugs, dated the 10th January 1931, namely:—

In the said notification after item 11, the following item shall be added, namely:—

"12. 1-methyl-4-phenyl piperidine-4 carboxylic acid ethyl ester (In the form of the hydrochloride, known under the names of Dolantin, Demerol, Pethidine, Isonipecalne, etc.);

- 4-(3-Hydroxyphenyl)-1-methyl-4-piperidyl ethyl ketone hydrochloride (known as Keto-bemidone);
- 1-methyl-4-methahydroxyphenyl-piperidine-4-carboxylic acid ethyl ester (known as Bemidone),
- $\alpha$ -1,3-dimethyl-4-phenyl-4-propionoxy piperidine (known as NU-1196, or Nisentil);
- $\beta$ -1,3-dimethyl-4-phenyl-4-propionoxy piperidine (otherwise identified by symbol NU-1779);
- 4,4-diphenyl-3-dimethylamino-heptanone-3 (also known as methadone, Amidone, Dolophine, Adanon, etc.);
- 4,4-diphenyl-5-methyl-6-dimethylamino-hexanone-3 (known as Isomethodone);
- 6-dimethylamino-4, 4-diphenyl-3-heptanol (otherwise identified by symbol N.I.H.-2933);
- 6-dimethylamino-4, 4-diphenyl-3-acetoxyheptane (otherwise identified by symbol N.I.H.-2953);
- 6-Morpholine-4, 4-diphenyl-3-heptanone (also known as CB-11, Heptazone or Heptalgin).
- Dihydrocodeine.
- Acetyldihydrocodeine."

[No. 6]

## CENTRAL EXCISES

*New Delhi, the 15th September, 1951*

**S.R.O. 1434.**—In exercise of the powers conferred by sub-section (1) of section 37 of the Central Excises and Salt Act, 1944 (I of 1944), the Central Government hereby directs that the following further amendment shall be made in the Central Excise Rules, 1944, namely:—

In sub-rule (2) of rule 9 of the said Rules, for the words, "If any excisable goods are removed or deposited in contravention of sub-rule (1) from any place specified therein," the words "If any excisable goods are, in contravention of sub-rule (1), deposited in, or removed from, any place specified therein," shall be substituted.

[No. 29.]

*New Delhi, the 22nd September, 1951*

**S.R.O. 1435.**—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (I of 1944), the Central Government hereby directs that the following further amendment shall be made in the Central Excise Rules, 1944, namely:

In rule 41 of the said Rules, for the words "shall produce and deliver up to the proper officer the permit or certificate which has accompanied such goods" the words

"shall endorse the date of the receipt of the goods on the permit or certificate which has accompanied such goods, and shall produce and deliver up to the proper officer such permit or certificate"

shall be substituted.

[No. 30.]

W. SALDANHA, Under Secy.

## CUSTOMS

*New Delhi, the 18th September, 1951*

**S.R.O. 1436.**—In exercise of the powers conferred by section 188 of the Sea Customs Act, 1878 (VIII of 1878), the Central Government hereby directs that the following further amendment shall be made in the notification of the Government

of India in the Ministry of Finance (Revenue Division), No. 17—Customs, dated the 17th February 1951, namely:—

In the said notification, for the words "Baroda and Delhi" the words "Baroda, Shillong and Delhi" shall be substituted.

[No. 68]

E. RAJARAM RAO, Joint Secy.

## CENTRAL BOARD OF REVENUE

### INCOME-TAX

*New Delhi, the 10th September 1951*

**S.R.O. 1437.**—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), and in partial modification of its notification No. 32—Income-tax, dated the 9th November, 1946, the Central Board of Revenue directs that the Appellate Assistant Commissioner, Nasik Range shall also and the Appellate Assistant Commissioner, of Income-tax, Poona Range shall not perform his functions in respect of Messrs. Reginald Motors of Nasik District for their Income-tax appeal for the assessment year 1949-50.

[No. 91]

*New Delhi, the 17th September, 1951*

**S.R.O. 1438.**—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue directs that the following further amendments shall be made in the Schedule appended to its Notification No. 32—Income-tax, dated the 9th November 1946, namely:—

In the said Schedule under the sub-head 'IX-Bihar and Orissa' for the existing Ranges and Income-tax Circles the following Ranges and Income-tax Circles shall be substituted, namely:—

#### PATNA.

- (1) Patna.
- (2) Special Circle, Patna
- (3) Gaya.
- (4) Shahabad.
- (5) Dhanbad Circle.
- (6) Colliery Circle, Dhanbad.
- (7) Santhal Parganas.
- (8) Hazaribagh.
- (9) Special Survey Circle, Patna [in respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Circles specified in entries (1) to (8) above].

#### MUZAFFARPUR.

- (1) Muzaffarpur.
- (2) Darbhanga.
- (3) Purnea.
- (4) Champaran
- (5) Saran.
- (6) Bhagalpur.
- (7) Monghyr.
- (8) Special Survey Circle, Patna [in respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Circles specified in entries (1) to (7) above].

#### RANCHI.

- (1) Special Circle, Ranchi
- (2) Salary Circle, Ranchi.

- (3) Ranchi-Palamau Circle.
- (4) Manbhum Sadar.
- (5) Singhbhum Circle.
- (6) Jharsuguda.
- (7) Special Circle, Cuttack (in respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Circle, Jharsuguda).
- (8) Special Survey Circle, Ranchi [in respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Circles specified in entries (1) to (7) above].

**CUTTACK.**

- (1) Special Circle, Cuttack (in respect of persons who have their principal place of business in or reside in the jurisdiction of Income-tax Circles, in Cuttack Range excluding those in the jurisdiction of Income-tax Circle, Jharsuguda).
- (2) Cuttack Circle.
- (3) Baripada.
- (4) Berhampur.
- (5) Rayagada.
- (6) Special Survey Circle, Ranchi [in respect of persons who have their principal place of business in or reside in the jurisdiction of the Income-tax Circles specified in entries (1) to (5) above].

[No. 93]

*New Delhi, the 18th September, 1951*

**S.R.O. 1439.**—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue directs that the following further amendment shall be made in the Schedule appended to its notification No. 32-Income-tax, dated the 9th November 1946, namely:—

In the schedule appended to the said notification, under the sub-head 'IX-Hyderabad', the entry '(4) Nalgonda' shall be deleted and the subsequent entries shall be renumbered as 4 to 11 respectively.

[No. 94]

**S.R.O. 1440.**—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue directs that the following further amendments shall be made in the Schedule appended to its notification No. 32-Income-tax, dated the 9th November 1946, namely:—

In the said Schedule under the sub-head 'I-Madras and Mysore' under "Tiruchirappalli Range," the entry '(3) Pudukottah Circle' shall be added.

[No. 95]

*New Delhi, the 22nd September, 1951*

**S.R.O. 1441.**—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922, (XI of 1922) and in partial modification of its notification No. 32-Income-tax, dated the 9th November 1946, the Central Board of Revenue directs that the Appellate Assistant Commissioner of Income-tax, Rajkot, shall also and the Appellate Assistant Commissioner of Income-tax, Ahmedabad Range II, Ahmedabad, shall not perform his functions in respect of the persons specified in column 2 of the Schedule hereto annexed for the appeals mentioned in the corresponding entry in column 3 thereof:—

**SCHEDULE.**

S. No.	Name and address of assessee	Appeal No. and assessment year
1	2	3
1.	Mr. Bapalal Godadhbhai . . . . .	137/49-50 1944-45
2.	Mr. Jagabhai Dahyabhai . . . . .	32/49-50 1944-45
3.	Mr. Shantilal Lalbhai . . . . .	402/49-50 1948-49

1	2	3
4.	Mr. Shantilal Lalbhai . . . . .	463/49-50 1947-48
5.	Shri Jain Vias Swetamber Srimali Panch . . . . .	659/49-50 1948-49
6.	The Gajendra Ice Department . . . . .	696/49-50 1948-49
7.	M/s Surendra Kantilal & Co. . . . .	734/49-50 1948-49
8.	M/s Surendra Kantilal & Co. . . . .	735/49-50 1948-49
9.	Shree Jain Sweta nber Visa Shrimali Panch . . . . .	737/49-50 1949-50
10.	M/s Peter A. De Souza . . . . .	744/49-50 1949-50
11.	Gajendra Ice Depot . . . . .	803/49-50 1949-50
12.	Parinar Shivilal Jivanlal . . . . .	811/49-50 1947-48
13.	Mr. Bhogilal Lallubhai . . . . .	828/49-50 1949-50
14.	Mr. Manilal Dhanjibhai . . . . .	866/49-50 1949-50
15.	Mr. Mohanlal Damodardas . . . . .	868/49-50 1949-50
16.	Mr. Keshavlal Ganpatram . . . . .	875/49-50 1945-46
17.	Ratanpole Akha Kapad & Damaged Mahajan . . . . .	881/49-50 1948-49
18.	Ratanpole Akha Kapad & Damaged Mahajan . . . . .	885/49-50 1947-48
19.	Mr. Ratilal Maneklal Teli . . . . .	918/49-50 1948-49
20.	Mr. Ratilal Maneklal Teli . . . . .	919/49-50 1947-48
21.	Mr. Ratilal Maneklal Teli . . . . .	920/49-50 1946-47
22.	Mr. Ratilal Maneklal Teli . . . . .	921/49-50 1945-46
23.	Mr. Gopaldas Gokaldas . . . . .	938/49-50 1948-49
24.	Mr. Virchand Sankalchand . . . . .	950/49-50 1949-50
25.	Universal Cycle & Motor Co. . . . .	973/49-50 1949-50
26.	Mody Maglal Ganpatram . . . . .	974/49-50 1949-50
27.	Mr. Gagabhai Dahuabhai . . . . .	984/49-50 1945-46
28.	Mr. Gagabhai Dahuabhai . . . . .	985/49-50 1946-47
29.	Mr. Vadilal Bapalal . . . . .	991/49-50 1948-49
30.	M/s Surendra Kandilal & Co. . . . .	998/49-50 1949-50
31.	Mr. Shantilal K. Shah . . . . .	999/49-50 1949-50
32.	Shree Krishna Bhajiya House . . . . .	1011/49-50 1949-50
33.	Ratanpole Akha and Dinaged Kapad Mahajan . . . . .	1034/49-50 1949-50
34.	Mr. Mohanlal Govindlal . . . . .	3/50-51 1947-48
35.	Mr. Ratilal Lallubhai . . . . .	2/50-51 1947-48
36.	Mr. Gopaldas Gokaldas . . . . .	10/50-51 1949-50
37.	Bhagvandas Malavrao . . . . .	19/50-51 1949-50
38.	Umedram Maganlal (25A) . . . . .	23/50-51 1949-50
39.	Umedram Maganlal J (26A) . . . . .	24/50-51 1949-50
40.	Umedram Maganlal 23(3) . . . . .	25/50-51 1949-50
41.	Sarojini P. Hathising . . . . .	36/50-51 1946-47
42.	Sarojini P. Hathising . . . . .	37/50-51 1945-46
43.	Sarvottam P. Hathising . . . . .	38/50-51 1949-50
44.	Sarvottam P. Hathising . . . . .	39/50-51 1948-49
45.	Sarvottam P. Hathising . . . . .	40/50-51 1947-48
46.	Sarvottam P. Hathising . . . . .	41/50-51 1946-47
47.	Gunottam P. Hathising . . . . .	42/50-51 1949-50
48.	Gunottam P. Hathising . . . . .	43/50-51 1948-49
49.	Gunottam P. Hathising . . . . .	44/50-51 1947-48
50.	Gunottam P. Hathising . . . . .	45/50-51 1945-47
51.	Rameshchandra Chudulal . . . . .	66/50-51 1948-49
52.	M/s Shantilal Bhaichand . . . . .	87/50-51 1949-50
53.	Mody Marghabhai Dolabhai S. 23(4) . . . . .	90/50-51 1949-50
54.	M/s Hathising Textile Products . . . . .	97/50-51 1946-47
55.	M/s Hathising Textile Products . . . . .	101/50-51 1945-46
56.	M/s Devsibhai Umedbhai . . . . .	115/50-51 1945-46
57.	Mr. Marghabhai oalbhai S. 27 . . . . .	140/50-51 1949-50
58.	Satyanarayan Hindu Lodge . 23 (3) . . . . .	173/50-51 1949-50
59.	Bai Manglagauri Ramanlal . . . . .	175/50-51 1945-46
60.	Bai Manglagauri Ramanlal . . . . .	176/50-51 1943-44
61.	Bai Manglagauri Ramanlal . . . . .	177/50-51 1944-45
62.	Bai Manglagauri Ramanlal . . . . .	178/50-51 1941-42
63.	Bai Manglagauri Ramanlal . . . . .	179/50-51 1942-43
64.	Bai Manglagauri Ramanlal . . . . .	180/50-51 1946-47
65.	P. Patel and Co. . . . .	194/50-51 1949-50
66.	Mr. Amratlal Shikrabhai . . . . .	195/50-51 1949-50
67.	Prakash Electric Stores . . . . .	196/50-51 1949-50
68.	M/s Vadilal Bapalal . . . . .	202/50-51 1949-50
69.	M/s Jivram Sankalchand and Devsing Jamalsing 23(4) . . . . .	204/50-51 1949-50

1	2	3
70.	M/s Jivram Sankarchand (26A)	205/50-51 1949-50
71.	Mr. Jethalal Chhotalal	206/50-51 1949-50
72.	Bhagvati Chamal House	212/50-51 1949-50
73.	Ramnivas Pan House	218/50-51 1949-50
74.	Mohanlal Devram	225/50-51 1949-50
75.	Mr. Natverlal C. Desai	228/50-51 1949-50
76.	Mr. Fidaali Abdul Hussain	230/50-51 1949-50
77.	Seth Maneklal Mansukhbhai Trustee of B. P. Jain School	245/50-51 1945-46
78.	Seth Maneklal Mans. u' bhbai Trustee of B. P. Jain School	246/50-51 1946-47
79.	Sheth Maneklal Mansukhbhai Trustee of B. P. Jain School	247/50-51 1947-48
80.	Sheth Maneklal Mansukhbhai Trustee of B. P. Jain School	248/50-51 1948-49
81.	Sheth Maneklal Mansukhbhai Trustee of B.P. Jain School.	249/50-51 1949-50
82.	M/s Suleman Yarbhai	331/50-51 1949-50
83.	Mr. Mohmedali Yarbhai	332/50-51 1949-50
84.	Mr. Suleman Yarbhai	333/50-51 1949-50
85.	Mr. Jayantilal Nathalal S. 23 (4)	334/50-51 1941-42
86.	Mr. Jayantilal Nathalal S. 23(4)	335/50-51 1942-43
87.	Mr. Jayantilal Nathalal S. 23(4)	336/50-51 1943-44
88.	Mr. Jayantilal Nathalal S. 23(4)	337/50-51 1944-45
89.	Mr. Jayantilal Nathalal S. 34(4)	338/50-51 1945-46
90.	Mr. Jayantilal Nathalal S. 23(4)	339/50-51 1946-47
91.	Mr. Jayantilal Nathalal S. 23(4)	340/50-51 1947-48
92.	Mr. Jayantilal Nathalal S. 23(4)	341/50-51 1948-49
93.	Mr. Jayantilal Nathalal S. 23(4)	342/50-51 1949-50
94.	M/s Kisanlal Chhagnlal	382/50-51 1949-50
95.	M/s Jivram Sankarchand S. 27	388/50-51 1949-50
96.	Satyanarayan Hindu Lodge S. 26A	389/50-51 1949-50
97.	Mr. Jayantilal Nathalal S. 27	399/50-51 1948-49
98.	Mr. Jayantilal Nathalal S. 27	400/50-51 1941-42
99.	Mr. Jayantilal Nathalal S. 27	401/50-51 1942-43
100.	Mr. Jayantilal Nathalal S. 27	402/50-51 1943-44
101.	Mr. Jayantilal Nathalal S. 27	403/50-51 1944-45
102.	Mr. Jayantilal Nathalal S. 27	404/50-51 1945-46
103.	Mr. Jayantilal Nathalal S. 27	405/50-51 1946-47
104.	Mr. Jayantilal Nathalal S. 27	406/50-51 1947-48
105.	Mr. Jayantilal Nathalal S. 27	407/50-51 1949-50
106.	Zenith Engineering Works	409/50-51 1950-51
107.	Mr. Nathalal Veerchand	412/50-51 1949-50
108.	Mr. Nagindas Purshottamdas	431/50-51 1950-51
109.	Mr. Nagindas Purshottamdas	432/50-51 1948-49
110.	Mr. Nagindas Purshottamdas	433/50-51 1949-50
111.	Ambika Sugar Stores	434/50-51 1949-50
112.	Ambika Fugar Stores	435/50-51 1950-51
113.	Mr. Nandlal Motilal	436/50-51 1950-51
114.	Dr. Guntantil Chhimanlal	438/50-51 1950-51
115.	Mr. Shantilal Lalbhai	439/50-51 1949-50
116.	Mr. Mafatlal Maganlal	443/50-51 1950-51
117.	Mr. Amratlal K. Ravel	449/50-51 1950-51
118.	Upto Date Tailoring Works	450/50-51 1950-51
119.	M/s Universal Cycle & Motor Co.	463/50-51 1950-51
120.	Mr. Abdul Rehman Nathabhai	464/50-51 1949-50
121.	Sovanti Vastra Bhandar	465/50-51 1950-51
122.	Indian Toys Mart	468/50-51 1949-50
123.	M/s Shantilal Chandrakant S. 26A	473/50-51 1950-51
124.	Gujrat Tube & Sanitary Stores	476/50-51 1947-48
125.	M/s J. H. ji Okhaji	477/50-51 1950-51
126.	M/s Gujrat Tube and Sanitary Store S. 26A	3478/50-51 1948-49
127.	Mr. Chhabildas Harijivandas	486/50-51 1949-50
128.	Mr. Lalbhai Fulchand	490/50-51 1947-48
129.	M/s Jagdish Cycle Works	504/50-51 1950-51
130.	Mr. Amratlal Shakrabhai	505/50-51 1950-51
131.	Mr. Mohmed Umer Abdulabhai	510/50-51 1950-51
132.	Mr. Purshootam Chhagnlal	525/50-51 1949-50
133.	M/s National Construction Co.	528/50-51 1950-51
134.	Dr. H. K. Mehta	532/50-51 1948-49
135.	Dr. H. K. Mehta	533/50-51 1949-50
136.	Dr. H. K. Mehta	534/50-51 1950-51

1	2	3	4
137.	M/s Ambika Bobbin Ring Works S. 26A . . . . .	536/50-51	1949-50
138.	M/s Ambika Bobbin Ring Works S. 26A . . . . .	537/50-51	1949-50
139.	Mr. Natverlal Somabhai . . . . .	538/50-51	1950-51
140.	Mr. Vedilal Manilal . . . . .	540/50-51	1950-51
141.	Mr. Ashkbhai Chimanlal . . . . .	549/50-51	1950-51
142.	Sarko General Stores 23(4) . . . . .	564/50-51	1950-51
143.	M/s S. B. Khana and Co. 23(4) . . . . .	565/50-51	1950-51
144.	M/s Champaklal Sankalchand . . . . .	590/50-51	1950-51
145.	M/s Champaklal Sankalchand . . . . .	591/50-51	1949-50
146.	Kanaya Hindu Restaurant . . . . .	592/50-51	1950-51
147.	Mr. Ibrahim bhai Taslokhusan . . . . .	593/50-51	1950-51
148.	Mr. Shankalchand Chhotalal . . . . .	599/50-51	1950-51
149.	Mr. A. M. Malek . . . . .	622/50-51	1949-50
150.	Mr. Natverlal Manilal Shah . . . . .	626/50-51	1946-47
151.	Mr. Natverlal Manilal Shah . . . . .	628/50-51	1947-48
152.	Mr. Natverlal Manilal Shah . . . . .	629/50-51	1948-49
153.	Mr. Jethalal Chhotalal . . . . .	646/50-51	1950-51
154.	M/s Khraghoda Salt Crushing Co. . . . .	648/50-51	1950-51
155.	M/s. Natverlal and Co. . . . .	651/50-51	1949-50
156.	Jasvant Hindu Hotel . . . . .	655/50-51	1950-51
157.	Ishver Vijay Hindu Hotel . . . . .	671/50-51	1949-50
158.	M/s Hakim Brass Factory . . . . .	675/50-51	1950-51
159.	M/s Sarafalli Amiruddin . . . . .	704/50-51	1950-51
160.	M/s Sarafalli Amiruddin (26A) . . . . .	705/50-51	1950-51
161.	Mr. Kasambhai Fatehbhai 23(4) . . . . .	712/50-51	1950-51
162.	M/s S. B. Khana and Co. S. 27 . . . . .	713/50-51	1950-51
163.	Mr. Nathalal Veerchand S. 23(4) . . . . .	731/50-51	1947-48
164.	Mr. Nathalal Veerchand S. 23(4) . . . . .	732/50-51	1950-51
165.	Mr. Nathalal Veerchand S. 34(4) . . . . .	733/50-51	1948-49
166.	Mr. Nathalal Veerchand S. 23(4) . . . . .	734/50-51	1946-47
167.	Mr. Trikamdal Ranchhoddas S. 23(4) . . . . .	735/50-51	1950-51
168.	Mr. Nathalal Veerchand S. 23(4) . . . . .	736/50-51	1943-44
169.	Mr. Nathalal Veerchand S. 23(4) . . . . .	737/50-51	1944-45
170.	Mr. Nathalal Veerchand S. 23(4) . . . . .	738/50-51	1945-46
171.	M/s Indian Hosiery Supply Co. . . . .	2/51-52	1950-51
172.	M/s Kisanlal Chhagnal . . . . .	7/51-52	1950-51
173.	M/s Sujandin Nazarli . . . . .	16/51-52	1949-50
174.	M/s Kant Trading Co. . . . .	44/51-52	1946-47
175.	Dr. Natverlal C. Desai . . . . .	51/51-52	1950-51
176.	Karachi Hair Cutting Saloon S. 27 . . . . .	52/51-52	1950-51
177.	Mr. Chimanlal Devchand . . . . .	53/51-52	1950-51
178.	Mr. Chimanlal Devchand . . . . .	54/51-52	1949-50
179.	M/s Lalbhai Popatlal . . . . .	80/51-52	1948-49
180.	M/s Victory Gramophone Agency . . . . .	88/51-52	1947-48
181.	M/s Victory Gramophone Agency . . . . .	89/51-52	1948-49
182.	Mr. Atmar m Chumilal . . . . .	100/51-52	1948-49
183.	Mr. Lalbhai Jechand . . . . .	617/50-51	1950-51
184.	Mr. Trikamlal Kalidas . . . . .	647/50-51	1946-47
185.	Karachi Hair Cutting Saloon S. 23(4) . . . . .	714/50-51	1950-51
186.	Mr. Parbhudas Mohanlal . . . . .	716/50-51	1950-51
187.	Ajmer Dying and Printing Works . . . . .	725/50-51	1950-51
188.	Chhotalal Hiralal & Others . . . . .	805/50-51	1947-48
189.	M/s Champaklal Sankalchand S. 27 . . . . .	806/50-51	1950-51
190.	M/s Champaklal Sankalchand S. 27 . . . . .	807/50-51	1949-50
191.	Mr. Kirtilal Chumilal . . . . .	811/50-51	1950-51
192.	Jyoti Electric and Trading Co. . . . .	813/50-51	1950-51
193.	Jyoti Electric and Trading Co. . . . .	814/50-51	1949-50
194.	Mr. Dabhabhai Shambhubhai . . . . .	848/50-51	1949-50
195.	Mr. H. D. Shah and Co. S. 27 . . . . .	860/50-51	1950-51
196.	Mr. H. D. Shah and Co. S. 27 . . . . .	863/50-51	1949-50
197.	Mr. Jugaldas Chhotalal . . . . .	870/50-51	1950-51

## CUSTOMS

*New Delhi, the 15th September 1951*

**S.R.O. 1442.**—In exercise of the powers conferred by the proviso to section 182 of the Sea Customs Act, 1878 (VIII of 1878), and in supersession of its notification No. 18-Customs, dated the 11th April 1931, the Central Board of Revenue hereby confers on the Assistant Collectors of Customs for the time being in charge of Appraising and Preventive Departments at the ports of Bombay, Calcutta and Madras, and the Collector of Customs, Cochin, the powers indicated in clause (a) of the said section.

[No. 66]

**S.R.O. 1443.**—In exercise of the powers conferred by the proviso to section 182 of the Sea Customs Act, 1878 (VIII of 1878), and in supersession of its notifications No. 15-Customs, dated the 27th May 1944, and No. 19-Customs, dated the 2nd August 1947, the Central Board of Revenue hereby confers on the Assistant Collectors of Customs in charge of the Manifest Clearance Departments of the Custom Houses at Bombay and Madras, and the Auditor of the Calcutta Custom House who is also in charge of the Manifest Clearance Department of the said Custom House, the powers indicated in clause (a) of the said section in so far as they relate to adjudications in respect of Offence No. 17 mentioned in the first column of the Schedule to section 167 of the said Act.

[No. 67]

A. K. MUKARJI, Under Secy.

## MINISTRY OF COMMERCE AND INDUSTRY

*New Delhi, the 12th September 1951*

**S.R.O. 1444.**—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the following further amendment shall be made in the notification of the Government of India in the late Ministry of Industry and Supply, No. S.R.O. 499, dated the 2nd September, 1950, namely:—

In the Schedule annexed to the said notification in column (2) under the heading 'Maximum retail price', the following shall respectively be substituted for the existing entries against items (1) to (4) under the heading "A—Hind Cycles":—

Rs. 143/8/- per cycle

Rs. 148/8/- per cycle

Rs. 143/8/- per cycle

Rs. 153/8/- per cycle.

[3(4)-PC/51.]

P. S. SUNDARAM, Under Secy.

*New Delhi, the 15th September 1951.*

**S.R.O. 1445.**—In exercise of the powers conferred by sub-clause (a) of clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the Ministry of Industry and Supply, No. I(1)-4(41), dated the 7th September 1950, as amended from time to time, namely:—

In the Schedule annexed to the said Notification, for the entry "Agricultural Engineer (Implements), Government of East Punjab, Ambala," the entry "Agricultural Engineer (Implements), Government of Punjab, Karnal," shall be substituted.

[No. SC(A)-4(41).]



*New Delhi, the 15th September, 1951*

**S.R.O. 1446.**—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the Ministry of Industry and Supply, No. I(1)-4(41), dated the 7th September, 1950, as amended from time to time, namely:—

To the Schedule annexed to the said Notification, the following entry shall be added, namely:—

“Deputy Director of Industries (Rehabilitation), Government of Punjab, Simla,”

[SC(A)-4(41).]

**S.R.O. 1447.**—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the Ministry of Industry and Supply No. I(1)-1(530)D, dated the 26th May, 1948, as amended from time to time, namely:—

To the Schedule annexed to the said Notification, the following entry shall be added, namely:—

“Deputy Director of Industries (Rehabilitation), Government of Punjab, Simla”,

[SC(A)-4(41)A.]

**S.S.O. 1448.**—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the Ministry of Industry and Supply, No. I (1)-1(699)48-B, dated the 16th August, 1948, as amended from time to time, namely:—

To the Schedule annexed to the said Notification, the following entry shall be added, namely:—

“Deputy Director of Industries (Rehabilitation), Government of Punjab, Simla”,

[SC(A)-4(41)B.]

**S.R.O. 1449.**—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the Ministry of Industry and Supply, No. I(1)-1(106), dated the 8th March, 1948, as amended from time to time, namely:—

To the Schedule annexed to the said Notification, the following entry shall be added, namely:—

“Deputy Director of Industries (Rehabilitation), Government of Punjab, Simla,”

[No. SC(A)-4(41)C.]

N. R. REDDY, Under Secy.

## MINISTRY OF FOOD AND AGRICULTURE

### AGRICULTURE

*New Delhi, the 11th September 1951*

**S.R.O. 1450.**—In exercise of the powers conferred by sub-section (1) of section 3 of the Destructive Insects and Pests Act, 1914 (II of 1914), the Central Government hereby directs that the following further amendments shall be made in the Order published with the notification of the Government of India in the late

Education, Health and Lands Department No. F.320/35-A, dated the 20th July, 1936, namely:—

In the said order after paragraph 14A the following paragraph shall be inserted, namely:—

"14B. No bulbs or plants of onion (*Allium cepa*), Garlic (*Allium sativum*) shallot (*Allium ascalonicum*), leek (*Allium porrum*), chive (*Allium schoenoprasum*) shall be imported into India unless they are accompanied, in addition to the general certificates required under paragraph 5 by an official phytosanitary certificate guaranteeing freedom from the fungus disease *Urocystis cepulae*."

[No. F.6-24/51-Dte.I.]

S. R. MAINI, Dy. Secy.

New Delhi, the 15th September, 1951

**S.R.O. 1451.**—In pursuance of clause 9 of the Sugar and Gur Control Order 1950, the Central Government is pleased to direct that the following further amendment shall be made in the late Ministry of Agriculture Notification S.R.O. 792, dated the 19th October, 1950:—

In "The Schedule" to the said Notification—

Under the column "Designation of Officer" after the entry "Deputy Director (Sugar and Vanaspati) Office of the Vegetable Oil Products Controller, Ministry of Agriculture"

Add "Economic & Statistical Adviser, Ministry of Food and Agriculture".

Under the column "Extent of Powers", against the above entry,

Add "Clause 9(a) and (b) only."

[SV-105(3)/51.]

P. A. GOPALAKRISHNAN, Jt. Secy.

New Delhi, the 17th September, 1951

**S.R.O. 1452.**—In pursuance of the provisions contained in Section 4(4)(ii) of the Indian Lac Cess Act, 1930 (XXIV of 1930), Shri Kunj Lal Goenka, Satti Bazar, Mirzapur, has been renominated by the Shellac Traders Association, Mirzapur, as a member of the Governing Body of the Indian Lac Cess Committee with effect from the 1st October 1951, to represent the Shellac Manufacturing industry.

[No. F.4-49/51-Com.I.]

**S.R.O. 1453.**—In exercise of the powers conferred by Section 4(4)(v) of the Indian Lac Cess Act 1930 (XXIV of 1930), the Central Government is pleased to appoint the following persons as members of the Governing Body of the Indian Lac Cess Committee with effect from the 1st October 1951:—

- (1) District Planning Officer, Mirzapur, to represent the cultivators of lac in Uttar Pradesh, *vice* the Sub-Divisional Officer, Robertsganj and Dudhi Estates.
- (2) Shri Anandaprasad Mondal, M.L.A., P.O. Kalua, District Burdwan to represent the cultivators of lac in West Bengal, *Vice* Shri J. N. Chowdhuri.

[No. F.4-49/51-Com.I.]

S. K. GHOSE, Under Secy

New Delhi, the 22nd September, 1951

**S.R.O. 1454.**—In exercise of the powers conferred by Section 4 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government hereby directs that the following amendments shall be made in the Notification of

the Government of India in the Ministry of Food and Agriculture. No. S.R.O. 1110, dated 21st July 1951, namely:—

In the said Notification for the words 'Secretary, Supply Department' the words 'Commissioner of Civil Supplies' and for the words 'Supply Commissioner and Director of Rationing' the words 'Deputy Commissioner of Civil Supplies' respectively shall be substituted.

[No. CG.603(38)-VI.]

S. K. SEN, Dy. Secy.

## MINISTRY OF NATURAL RESOURCES AND SCIENTIFIC RESEARCH

*New Delhi, the 14th September, 1951*

**S.R.O. 1455.—Corrigendum.**—In this Ministry's notification No. S.R.O. 1217, dated the 31st July, 1951, published on pages 1166, and 1167 in the Gazette of India Part II, Section 3, dated the 11th August 1951, for clause (c) of amendment (8), substitute the following clause, namely:—

"(c) Item 7 A shall be omitted".

[M.II-159(6).]

T. GONSALVES, Dy. Secy.

## MINISTRY OF REHABILITATION

*New Delhi, the 28th August 1951*

**S.R.O. 1456.**—In exercise of the powers conferred by section 4 of the Influx from Pakistan (Control) Act, 1949 (XXIII of 1949), the Central Government hereby directs that the following further amendments shall be made in the Permit System Rules, 1949, namely:—

I. After the proviso to rule 5 of the said Rules, the following proviso shall be added at the end, namely:—

"Provided further that in the District of Amritsar, the powers conferred by clauses (iii) and (iv) may be exercised by the Personal Assistant to the Deputy Commissioner if he is a member of the Punjab Civil Service with the rank of a first class Magistrate."

II. Rule 26 of the said Rules shall be re-numbered as sub-rule 26(1) and after sub-rule (1) as so re-numbered, the following sub-rule shall be added, namely:—

"(2) Where a temporary permit holder obtains permission from the Superintendent of Police concerned, for visiting another place, but does not avail of the permission, he shall get his permit endorsed accordingly by the Superintendent of Police, who granted the permission, before returning to Pakistan."

[No. III/PMT(X-125)/50(13).]

V. D. DANTYAGI, Joint Secy.

## MINISTRY OF COMMUNICATIONS

POSTS AND TELEGRAPH

*New Delhi, the 14th September, 1951*

**S.R.O. 1457.**—In exercise of the powers conferred by the Indian Post Office Act, 1898 (VI of 1898), the Central Government hereby directs that the following further amendment shall be made in the Indian Post Office Rules, 1933, namely:—

In sub-rule (1) of rule 76 of the said Rules, for the words "No label of any kind shall be affixed by the sender to such a cover", the words "Not more than one non-postal stamp or label of any kind and not exceeding one and a quarter inch by one and quarter inch in size shall be affixed by the sender to such a cover", shall be substituted.

[C-40-65/50/Part].

*New Delhi, the 17th September, 1951*

**S.R.O. 1458.**—In exercise of the powers conferred by Section 7 of the Indian Telegraph Act, 1885 (XIII of 1885), the Central Government hereby directs that with effect from the 16th October, 1951, the following further amendment shall be made in the Indian Telegraph Rules, 1932, namely:—

In item (II) in the first column of the table set forth in clause (1) of rule 452 of the said Rules the word 'Simla' shall be omitted.

[No. PHA-48-12/51.]

**S.R.O. 1459.**—In pursuance of clause (5) of rule 452 of the Indian Telegraph Rules, 1932, the Central Government specifies the 16th October, 1951 as the date with effect from which the message rate system shall be introduced at Simla.

[No. PHA-48-12/51.]

*New Delhi, the 18th September, 1951*

**S.R.O. 1460.**—In exercise of the powers conferred by the Indian Post Office Act, 1898 (VI of 1898), the Central Government hereby directs that the following further amendments shall be made in the Indian Post Office Rules, 1933, namely:—

To rule 101 and clause (b) of sub-rule (1) of rule 195 of the said rules, the following explanation shall be added, namely;

*Explanation.*—Impressions of a stamping machine made by a competent authority shall be tantamount to affixing stamps of corresponding value.

[C-14-6/51.]

K. V. VENKATACHALAM, Dy. Secy.

## MINISTRY OF TRANSPORT

*New Delhi, the 15th September, 1951*

**S.R.O. 1461.**—In pursuance of sub-section (3) of section 1 of the Marking of Heavy Packages Act, 1951 (XXXIX of 1951), the Central Government hereby appoints the 1st day of November 1951 as the date on which the said Act shall come into force.

[No. 81-M.A.(1)/48.]

H. C. SARIN, Dy. Secy.

## MINISTRY OF RAILWAYS

(Railway Board)

*New Delhi, the 18th September, 1951*

**S.R.O. 1462.**—*Corrigendum.*—In the notification of the Government of India in Railways (Railway Board) No. 809-TG, dated 11th July, 1951, published at pages 1082 and 1083 of the *Gazette of India*, Part II, Section III, dated the 21st July, 1951, insert the word "rear" between the words "the" and "brakevan" appearing in line 7 of page 1083.

[No. 809-TG.]

RANJIT SINGH, Joint Dir.

## MINISTRY OF WORKS, PRODUCTION & SUPPLY

CENTRAL BOILERS BOARD

*New Delhi, the 19th September, 1951*

**S.R.O. 1463.**—In exercise of the powers conferred by section 28 of the Indian Boilers Act, 1923, (V of 1923), the Central Boilers Board hereby directs that the following further amendments shall be made in the Indian Boiler Regulations,

1950, the same having been previously published as required by sub-section (1) of section 31 of the said Act, namely:

For regulation 273 of the said Regulations the following regulation shall be substituted, namely:—

"273. Longitudinal Stress.—Notwithstanding the working pressure as calculated by equation 72, the thickness of drum or cylindrical header shells shall be such that in no case does the longitudinal stress resulting from the combination of stress arising from internal steam pressure, the self weight of the drum or header and its contents and all externally applied loads, exceed the permissible working stress corresponding to the working metal temperature as prescribed in regulation 271.

(a) The maximum direct longitudinal stress due to the internal steam pressure acting on the drum ends shall be calculated as follows:—

$$f_d = \frac{PD^2}{4 \cdot 273 A} \quad (\text{Eqn. 72a}).$$

where

$f_d$  = Maximum direct longitudinal stress in pounds per square inch.

$P$  = Design pressure in pounds per square inch.

$D$  = Internal diameter of the drum or header in inches.

$A$  = Net cross-sectional area of the drum or header in square inches taken through the tube holes in a plane at right angles to its axis.

(b) The resultant bending moment  $M_R$  at any section shall be the algebraic sum of the bending moments due to the eccentricity of the end pressure and that due to the externally applied loads.

$$M_R = M_e + M_w \quad (\text{Eqn. 72b}).$$

The bending moment due to the eccentricity of end pressure shall be calculated as follows:—

$$e = \frac{PD^3 e_0}{1 \cdot 273} \quad (\text{Eqn. 72c}).$$

where

$M_e$  = Resultant bending moment due to eccentricity in pound-inches.

$P$  = Design Pressure in pounds per square inch.

$D$  = Internal diameter of drum or header in inches.

$e$  = Eccentricity of the nett cross section, i.e., the distance from the neutral axis of the nett section to the drum or header axis in inches.

The bending moment ( $M_w$ ) due to externally applied loads shall be calculated by treating the drum or header as a beam carrying the externally applied loads, including the self-weight of the drum or header and its contents under working conditions.

(c) The stress due to bending shall be calculated as follows:—

$$f_b = \frac{M_R Y}{I_a} \quad (\text{Eqn. 72d}).$$

where

$f_b$  = Stress due to bending in pounds per square inch.

$M_R$  = Resultant bending moment at the section in pound-inches.

$Y$  = Distance from the neutral axis of the nett cross section to the extreme fibre of the drum or header shell in inches.

$I_a$  = Moment of inertia of the nett cross section taken about its neutral axis in (inches)<sup>4</sup>.

The resultant longitudinal stress is the algebraic sum of the stresses given under (a) and (c).

(d) In calculating the longitudinal stress due to bending in a drum supported at or near its ends and connected to a lower drum by a bank of tubes (so arranged as to form substantial struts between the drums) the value of the moment of inertia ( $I_a$ ) used in the formula in sub-regulation (c) shall be:

Moment of inertia of upper drum ( $I_b$ ) plus a proportion ( $S$ ) of the moment of inertia of lower drum ( $I_c$ ).

$$\text{where } S = I \frac{\alpha^3}{2.40} \quad (\text{Eqn. 72e}).$$

where  $\alpha$  = The angle in degrees between the vertical and the line joining the centres of the upper and lower drums. Where  $\alpha$  is equal to

or greater than  $15\frac{1}{2}^{\circ}$ , S shall be taken as O. In no case shall the actual value of  $I_a$  used in Equation 72d be taken as more than 1.33 times the moment inertia of the upper drum ( $I_b$ ).

In the foregoing, unless otherwise agreed the term "bank of tubes" shall be defined as consisting of four or more rows of tubes extending over at least three quarters of the drum length between supports, and pitched longitudinally at not greater than an average pitch of four tube diameters."

[No. M/BL-307(44).]

N. P. DUBE, Secy.

New Delhi, the 20th September, 1951

**S.R.O. 1464.**—In exercise of the powers conferred by Section 2 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government hereby directs that the following amendments shall be made in the Salt (Reserve Stocks) Order, 1950, namely:—

In clause 3 of the said order—

(1) for the words "ten per cent", the words "fifteen per cent" shall be substituted; and

(2) the following words shall be added at the end of the said clause, namely:—

"but the Salt Controller may, at his discretion, vary from time to time the percentage of salt to be stored so however as not to reduce it below 10 or increase it above 15."

[No. Salt-14(3)/50.]

J. K. ROY, Asst. Secy.

## MINISTRY OF LABOUR

New Delhi, the 11th September 1951

**S.R.O. 1465.**—In exercise of the powers conferred by sections 6 and 15 of the Mines Maternity Benefit Act, 1941 (XIX of 1941), the Central Government hereby directs that the following amendment shall be made in the Mines Maternity Benefit Rules, 1943, the same having been previously published as required by sub-section (1) of section 15 of the said Act, namely:—

For sub-rule (2) of rule 1 of the said Rules, the following sub-rule shall be substituted, namely:—

"(2) They extend to the whole of India except the State of Jammu and Kashmir".

[No. M. 41(21)51/I]

**S.R.O. 1466.**—In exercise of the powers conferred by Section 10 of the Coal Mines Labour Welfare Fund Act, 1947 (XXXII of 1947), the Central Government hereby directs that the following amendment shall be made in the Coal Mines Labour Welfare Fund Rules, 1949, the same having been previously published as required by sub-section (1) of the said section namely:—

For sub-rule (2) of rule 1 of the said Rules, the following sub-rule shall be substituted, namely:—

"(2) They extend to the whole of India except the State of Jammu and Kashmir".

[No. M. 41(21)51/II]

P. N. SHARMA, Under Secy.

New Delhi, the 12th September 1951

**S.R.O. 1467.**—In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Labour No. S.R.O. 1010, dated the 2nd July 1951, namely:—

In the said notification for the word "Agra" occurring in the preamble, the words "Central Office, Aligarh" shall be substituted.

[No. LR-90(107).]

N. C. KUPPUSWAMI, Under Secy.

*New Delhi, the 4th September, 1951*

**S.R.O. 1468.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta in the industrial dispute between Thakur Mahadeo Singh and Sons, Labour Contractor and his workmen:—

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19.

*Reference No. 168 of 1950.*

Before Shri K. S. Campbell-Furi, B.A., LL.B., Chairman.

#### PARTIES:

Thakur Mahadeo Singh & Sons, Labour Contractor, and his Principal, B.I.S.N. Co. Ltd., Calcutta,

#### AND

The workmen employed by Thakur Mahadeo Singh & Sons.

**APPEARANCES:** Shri Ajit Kumar Mukherjee, Bar-at-Law, assisted by Shri Jiten Sen, Working President, Port Mazdoor Panchayet.

Shri S. K. Basu along with Shri S. C. Sinha, Counsel, for B.I.S.N. (Coal Dept.) Mazdoor Sangha.

Shri S. C. Sen, Counsel, instructed by Orr Dignam & Co. for Messrs. Mackinnon Mackenzie & Co., Managing Agents, B.I.S.N. Co. Ltd., Calcutta.

Shri S. C. Sen, Counsel, instructed by Shri N. M. Das Gupta for Messrs. Thakur Mahadeo Singh & Sons.

#### AWARD

By Notification No. LR-2(301), dated 20th November 1950 Government of India in the Ministry of Labour referred to this Tribunal for adjudication an industrial dispute having arisen between Thakur Mahadeo Singh & Sons, Labour Contractor and his Principal, B.I.S.N. Co. Ltd., Calcutta, on the one hand and the workmen employed by Thakur Mahadeo Singh & Sons on the other, regarding the matters specified in the Schedule annexed with the Reference. The Schedule embodies the following Issues:

#### ISSUES

- (1) Whether the existing wages of the workers are adequate. If not, whether this should be increased and to what extent?
- (2) Whether the sirdars should be paid a supervisory allowance of Rs. 20 per month in addition to the usual wages paid to the ordinary workers?
- (3) Whether the retrenchment or dismissal of the workers since 17th March 1950 were an act of victimization by the employer, and if so, whether all or some of the workers should be reinstated and if so who?
- (4) Whether the workers should be all registered? If so, under what procedure?
- (5) Whether the workers should be granted leave with pay and facilities of Provident Fund, and whether their service conditions should be laid down, if so, what rules should be prescribed for both?
- (6) Whether the existing unequal size of labour gangs should be abolished and an equal size of 12 men in each should be introduced and whether such gangs should be given work strictly by rotation?
- (7) Whether the Port Mazdoor Panchayet should be recognised by the employer?
- (8) Whether the contract system should be abolished and workers de-casualised directly under the Principal of the contractor?

Notices were issued in a week's time i.e. on 29th November 1950 to the parties directing the workmen to file the statement of claim by 20th December 1950 and the employers to file their written statement within 10 days thereafter with a copy to the other side. The statements of claim were filed by the General Secretary, Calcutta Port Mazdoor Panchayet as well as by the Secretary, B.I.S.N. Company (Coal Dept.) Mazdoor Sangh. The written statements were also brought on the record on behalf of Thakur Mahadeo Singh & Sons, Labour Contractor, as well as B.I.S.N. Co. Ltd., the principal employer and on the completion of the pleadings the parties were called to a preliminary hearing on the 28th February 1951 in order to discuss the procedure to be followed for the hearing and to ascertain the number of witnesses as well as for filing the list of documents to be relied upon in the course of hearing. The actual hearing commenced on the 7th March 1951 but in view of the fact that the hearing of main Bank Reference for which a tentative programme had already been notified for hearing outside the headquarters in various States, this Reference was to be heard subject to the exigencies of that programme with the result that the hearing could not possibly go on from day to day and the case was to be taken up necessarily when the Tribunal happened to be at the Headquarters. The parties furthermore could not keep pace for day to day hearing because the witnesses on more than one occasion failed to appear and were awaited for recording their statements. At any rate the evidence adduced by both sides came to close after several hearings in the first week of June 1951 and on the request of both sides I inspected the B.I.S.N. Jetty at Garden Reach Coal Depot as well as B.I.S.N. Collie lines in company with the Counsel of both sides and the representatives of the Employees Union and the Employer. B.I.S.N. Coal Superintendent who was present in the course of inspection was good enough to take me round the jetty but unfortunately it so transpired that no loading was going on at that time and the labour was not at work. The inspection, however, proved beneficial in understanding the procedure of loading at the jetty which was explained. The inspection of the Coolie Lines also gave an insight into the living conditions of the workers in the manner of accommodation and other amenities provided to them by the employer. The hearing of arguments, however, was delayed on account of U.P. tour and concluded on the 3rd of August 1951.

Now the matter arises in this way: One of the Respondents B.I.S.N. Company Ltd. mentioned in the Reference as the principal employer is a registered Company and has got a jetty at Garden Reach besides their principal work of shipping. The Company as alleged by their representative maintained a coal stock at Garden Reach Depot to provide coal fuel to their ships and outside ships. This work, it was stated, was done first at Brace Bridge Hall, Kidderpore, but that Depot was acquired by Port Commissioners and in order to compensate the Company B.I.S.N. was permitted to acquire a new site for maintaining Coal Depot. The Company accordingly started the jetty at Garden Reach somewhere in 1909 and since then this Coal Depot has been working. This jetty until the Second War was working exclusively for the bunkering of B.I.S.N. ships but in the course of work the Ministry of War Transport, Government of India, also availed this Coal Depot for other ships for expeditious loading. On the termination of the war, however, a Regional Port Directorate was set up and under their behest the Company was compelled to extend outside shipping facilities from this Coal Depot. This arrangement went on until 1949; but it so transpired that the Company converted their ships into oil burning ships instead of coal burning ships with the result that the Company's ships did not practically require coal shipping and coal storage and the work at Garden Reach Depot was mainly confined for loading outside ships. The handling of coal was done by a contractor throughout and the present contractor Thakur Mahadeo Singh & Sons took the charge somewhere in 1938. As to how the contract system was functioning and what was the lot of the workers under him when they took over the charge until June 1949 is not known but this fact cannot be gainsaid that the workers had organized themselves into a Mazdoor Sangh which was granted a certificate of registration by the Registrar of the Trade Unions under the Trade Union Act in September 1946. The organization has its own constitution as borne out by a copy of rules brought on the record. That there was some ferment and disaffection amongst the workers regarding service conditions also cannot be denied but the actual trouble arose when some of the workers of Thakur Mahadeo Singh & Sons approached the Port Mazdoor Panchayet for membership for the redress of their grievances. Now this body styled as Port Mazdoor Panchayet had come into existence as Bird & Co.'s Workers Union in the year 1942 and had scored some successes in ameliorating the lot of the workers of that Company. The Port Mazdoor Panchayet approached the contractor Thakur Mahadeo Singh & Sons for the redress of the grievances in writing and the Regional Labour Commissioner (Central) was also moved in this connection and the matter naturally took the shape of a dispute between the workers and the contractor. Meanwhile it so happened that some of the workers were dismissed from service by the contractor



and the matter was also duly taken up by the Regional Labour Commissioner and a tripartite conference was arranged between the representatives of the workers and the contractor before the Regional Labour Commissioner. The result of this meeting was that some of the disgruntled persons were taken back on tendering apology. In the course of this investigation by the Regional Labour Commissioner the Port Mazdoor Panchayet moved the Regional Labour Commissioner to inspect the lines and hear the workers personally in regard to the grievances. The Regional Labour Commissioner thereupon deputed one of the Labour Inspectors to visit the Coolie Lines who paid a visit on the 18th March 1950 but could not succeed to open discussion with the workers because he was prevented from doing so presumably by the workers of the Mazdoor Sangh. There was some row on that occasion which formed the subject of prosecution of a good number of workers and the sympathisers of Port Mazdoor Panchayet. The Port Mazdoor Panchayet again approached the Regional Labour Commissioner and informed him that old hands were being removed and new hands were being recruited without any justification. Some correspondence ensued between the office bearers of Port Mazdoor Panchayet and Regional Labour Commissioner as well as the contractor. These negotiations ended in drawing up an agreement (Ex. M) which was signed by one of the representatives of the Port Mazdoor Panchayet, one from the contractor side and by the Chief Labour Commissioner. The dispute was still going on when some of the sardars through whom the workers were being recruited were served with a notice by the contractor calling upon them to show cause as to why their services should not be terminated on the charge that they had engineered a strike and were obstructing the smooth working of the labour. This matter was also ultimately disposed of by arriving at a settlement before the Regional Labour Commissioner. The situation however did not improve and the smouldering embers of the rivalry between the Port Mazdoor Panchayet and Mazdoor Sangh could not be extinguished by this patch work of agreements and ultimately the matter was referred to the Tribunal for adjudication. The above resume of proved facts has been given to serve the purpose of actual premises upon which the case of both sides was built up by adducing evidence and discussed at length in the course of arguments but I think it would be also necessary to give the sum and substance of the specific pleas of the two Unions viz. Port Mazdoor Panchayet and Mazdoor Sangh so far the employees were concerned and similarly the pleas of the two sets of employers: Viz. (1) B.I.S.N. the principal employer and the (2) contractor Thakur Mahadeo Singh & Sons. In this respect Port Mazdoor Panchayet's case in nutshell is that the existing wages of the workers are inadequate and the lot of the sardars was also not as desired by the nature of their supervisory work and that the service conditions of the workers should be improved by getting them duly registered and by granting them the facilities of leave and Provident Fund as well as by introducing the system of equal size of gangs by rotation. And that the contract system should be abolished and the workers decasualised and brought directly under the control of B.I.S.N. Regarding the Union itself it was claimed that the Port Mazdoor Panchayet be recognised as a Union by the employer. The rival party of the workers viz. Mazdoor Sangh in their statement of claim did not go the whole way with the Port Mazdoor Panchayet and only asked for the registration of workers and for some improvement in the conditions of service by introducing equal size gangs. They emphatically repudiated the right of Port Mazdoor Panchayet to represent the workers of this jetty and opposed the idea of decasualization also.

The position taken up by the principal employer was that B.I.S.N. was not a party to the dispute which relates only with the contractor. That their ordinary trade or business was shipping and this Coal Depot was functioning no doubt for the loading of outside ships but the work was entirely entrusted to the labour contractor; and that the B.I.S.N. could not agree to take the labour directly under them. Thakur Mahadeo Singh contractor joined issues with the Port Mazdoor Panchayet on all points and his case briefly was that the workers were getting free ration and other amenities in addition to the wages and as such the existing wages could be compared favourably with other bodies and were adequate. That the lot of sardars was already much better than the workers and the conditions of service by the very casual nature of the work could not undergo any change. The prayer for the abolition of the contract system was claimed to be outside the scope of industrial dispute and decasualization was strongly opposed.

Shri S. C. Sen, Counsel for B.I.S.N. furthermore raised a preliminary objection that the order of Reference was bad in respect of impleading B.I.S.N. as party in the dispute between Thakur Mahadeo Singh & Sons and their workmen and that a specific issue be framed or the objection be decided as to whether the order of Reference impleading Messrs. Mackinnon Mackenzie & Co., M/A B.I.S.N. Co. Ltd., was *intra vires*. Notice was issued to the other side and on hearing the arguments I came to the conclusion that as issue No. 8 relates to the decasualization of the

labour upon which evidence was to be adduced by both sides it would not be proper to resolve this legal objection before recording the evidence and it was therefore ordered that the contention raised will be considered on the close of the evidence as a part of Issue No. 8 which was comprehensive enough. Accordingly the whole case including the preliminary objection came in for discussion at the time of arguments.

Now in proceeding with the Issues, Issue No. 8 embraces the preliminary objection also 'as to whether the principal employer B.I.S.N. could not be impleaded as a party to the Reference and would naturally come first for disposal. The other issues will be taken up ad-seriatim

Shri S. C. Sen, arguing on the preliminary objection contended that the workers were employed by the contractor and not by B.I.S.N. although the company was the owner of the jetty and as such the dispute between the workers and the contractor may be an industrial dispute so far they are concerned but the B.I.S.N. was wrongly dragged into it. The argument was further stressed that even in the Reference itself it was distinctly stated that the workers were working under Thakur Mahadeo Singh & Sons and not under B.I.S.N. Reliance was also placed on the statement of claim paragraph '1' wherein it was stated 'that the workers are employed by the contractor Thakur Mahadeo Singh' and it was emphasised that by their own admission, the workers are not the employees of B.I.S.N. It was maintained that the Reference so far B.I.S.N. was impleaded as Respondent was invalid because the points embodied in Issues Nos. (1) to (7) do not at all relate to B.I.S.N. but to the contractor by whom the workers are employed and under whom they actually work. It was next argued that the contractor was an independent contractor so far labour was concerned and the use of the word 'principal' for B.I.S.N. was misnomer inasmuch as B.I.S.N. was only responsible for the work when the actual work had been entrusted to the contractor as a whole and the B.I.S.N. had no concern with the labour but only with the work. It was urged that the very relationship of principal and Agent under the general law of contract also does not include a contractor of this type who was entrusted with the execution of a special type of work. Reliance was placed on the decision given in the case of *Rallis India Ltd.* (published in the *Calcutta Gazette* of 8th June 1950—page 1129) as well as *Maharashtra Sugar Mills Ltd. Vs. The Industrial Court, Bombay*, (published in *Labour Law Journal*, December 1950—page 1235). Alluding to the evidence brought on the record in this connection the learned Counsel proceeded that the one factor that free ration and accommodation were being supplied by B.I.S.N. to the workers would not change the position or establish the relationship between the workers and B.I.S.N. as one of employer and employees; and in this respect reliance was placed on a Madras case—'East India Distilleries and Sugar Factories Ltd., Ranipet and Their workers' (published in *Labour Law Journal*—September 1950—page 1000). Finally, reference was made to the statement of Shri Palchoudhury, representative of B.I.S.N. wherein he had deposed that the Company had nothing to do with the contractor's labour. It was concluded that B.I.S.N. was in no way interested in the dispute and had been wrongly impleaded as a respondent and as such the Reference was invalid so far B.I.S.N. was concerned and the Tribunal was not competent to adjudicate upon the matter treating it as a dispute between B.I.S.N. and the workers.

Shri A. K. Mukherjee, the learned Counsel for Port Mazdoor Panchayat on the other hand resisted the objection raised by Shri S. C. Sen and strenuously contended that B.I.S.N. was closely connected with the workers and the work was actually going on through the Company and the contractor was only a glorified Labour Officer. It was asserted that Thakur Mahadeo Singh & Sons were only acting as Agents and the control over the labour and the work was being exercised by the principal B.I.S.N. through the Coal Superintendent of their office. It was stressed that the contractor had no technical qualification and it was the Coal Superintendent who was responsible for all the work and payments were also made directly by the Company besides the supply of ration to the workers. The accounting and the office work was also done by the Company's office and the job of the contractor was only to distribute money and work as an Agent between the workers and B.I.S.N. and as such the industrial dispute was clearly between the Company and the workers. Reference was made to Section 18(2) as well as to the definition of 'employer' under Bombay Industrial Relations Act and it was maintained that the Issues involved relate directly to the Company and the award should also be binding upon them under the Industrial Disputes Act.

Now the Notification of Reference opens in the following words:

"Whereas an industrial dispute had arisen between Thakur Mahadeo Singh and Sons, Labour Contractor and his Principal, B.I.S.N. Co. Ltd., Calcutta, on the one hand and the workmen employed by Thakur

Mahadeo Singh and Sons on the other, regarding the matters specified in the Schedule hereto annexed; ”

Obviously the Central Government while arraying the parties put B.I.S.N. and Thakur Mahadeo Singh both as an employer and the Issue No (8) to the effect “Whether the contract system should be abolished and workers decasualised directly under the Principal ” go a long way to raise a dispute as to whether the principal was prepared to take up the charge of the work at the jetty directly as against the contract system. There is thus no confusion in the matter so far the Central Government was concerned and by putting Issue No. (8) in the list of items under Schedule, B.I.S.N. was directly brought in the dispute. The contention raised by their Counsel, however, may well be considered in the light of the evidence now adduced before the Tribunal as to whether B.I.S.N. was concerned with the dispute as envisaged by the Ministry of Labour in the order of reference or they are not at all connected with the dispute and it is only the contractor as an independent entity who was answerable to the Tribunal for the adjudication of the items referred to in the Schedule. The stand taken up by Shri Sen on behalf of the Company precisely was that the work was entrusted to the contractor as an independent contractor and B.I.S.N. was only concerned with the work. Shri S. C. Sen in the course of arguments put his argument to an illustration viz that when a building is to be constructed and the owner gives the contract to some construction company on payment of certain amount the employer shall have no concern with the labour etc., and will only be concerned with the building when it is completed. The illustration, I am afraid, itself furnishes an answer to the arguments when applied on the facts of this case. The jetty admittedly belongs to B.I.S.N. and the commission paid by the ships which come for loading at the berth also admittedly go to the coffers of the Company. The passes for bringing the labour from outside are also issued under the name and the seal of the Company by the Railway. It is also in evidence that residential accommodation and all other amenities including free ration, supply of fuel, water and medical aid are all provided at the cost of the Company. In these circumstances it is crystal clear that the analogy for the construction of a building on payment of a liquidated amount is entirely misplaced. The contractor as admitted by Shri Palchoudhury (representative of B.I.S.N.) in his deposition has been carrying on since 1938 and the rates of the contractor were varied on occasions and the contract could be terminated at the pleasure of B.I.S.N. All these factors pointedly go to show that the contractor was not independent in his activities, as B.I.S.N. in order to call this Reference as invalid, has chosen to treat him. I am conscious that the main plank of the argument was that so far labour was concerned it was the concern of the contractor and not of B.I.S.N., but there was no reply to the hard facts that if the contractor was independent and the B.I.S.N. had nothing to do with the workers why B.I.S.N. was issuing everytime the passes to the workers at the time of recruitment and furthermore were affording certain amenities including free ration as well as accommodation. It is so nice that the Company feels concerned with regard to the health and sanitation of the workers but if, as urged by the Counsel it was the contractor who was responsible for the workers the expense should have been incurred by him. On the appreciation of the evidence brought on the record and in view of the fact that one of the Issues viz No. 8 strikes at the very system upon which B.I.S.N. was working I am of the opinion that the Company was not only a proper respondent but a necessary one.

Adverting to the legal precedents or the authorities relied upon by the learned Counsel it is noteworthy that the case of Rallis India Ltd. stands wholly on a different footing and the observations made at page 1131 of Calcutta Gazette of 8th June 1950 viz. that the labour working under independent contractor could not be held as workmen of Rally Brothers do not apply on the facts given above. In the case of Rally Brothers in the first place no such objection was taken that the reference was invalid and the objection was only to this effect that the workmen in question were discharged by the contractor Fulchand whose employees they were and there was no responsibility in the matter of any liability for payment of compensation as claimed by the Union. This question also came in for discussion as to whether Fulchand was an independent contractor and it was observed that according to the agreement made between the Company and Fulchand (Ex. D) Fulchand undertook to arrange for some work at the rates and remuneration mentioned in the document for the session 1949-50, and had furnished a security of Rs 5000 for the due performance of the work. Evidence in that case was also produced that Fulchand engaged labour including 14 men in question for the performance of allotted work in Jute Press and that it was Fulchand Singh who paid the wages of these men. Account books produced in evidence also showed that the workers were in the employment of Fulchand Sardar. In these circumstances, in order to avoid the

payment of compensation the Company naturally put the responsibility upon the contractor. In this case on the contrary no written agreement was produced and Shri Palchoudhury in his statement disclosed that the contract was given merely by exchange of letters and continues for an indefinite period. Thakur Mahadeo Singh & Sons admittedly did not deposit any security and the work was being supervised by B.I.S.N. Coal Superintendent. This fact was also confirmed on my inspection note brought on the record soon after the inspection of the jetty and the Coolie lines on the 1st June 1951. In the other case (reported in the Labour Law Journal—December 1950—pp. 1235) Maharashtra Sugar Mills Vs. the Industrial Court, Bombay, the Company applied for a writ of *Certiorari* in the Bombay High Court on the ground that the Company was not liable to pay bonus to the contract labour, because contract labour was not included in the definition of the term 'employee'. The High Court considered at length the law of Master and Servant and also the evidence produced before the Industrial Court and held that as the Company did not exercise any control over the contract labour employed, the relationship of employer and employee did not subsist between them and contract labour and that the Industrial Court had acted without jurisdiction in awarding bonus to contract labour." The question involved in this case was for the payment of bonus and as on the evidence adduced it was found that the labour was employed by the contractor the Company was not held liable for the bonus. The facts of the case in hand are clearly distinguishable inasmuch the question herein for determination is as to whether the Company was wrongly impleaded in the face of Issue No. 8 and impinges upon the very system of recruitment of labour. The third ruling relied upon by Shri Sen in the course of his arguments (East India Distilleries and Sugar Factories Ltd., Ranipet and Their workers—reported in Labour Law Journal—September 1950, pp. 1000) also dealt with issues comprising over discharge of employees, wages, Dearness Allowance, bonus, Provident Fund etc. and the authority appears not to be in point and is of no avail. In theory also it is well recognised that the right of giving work on contract is a management function and the principal employer cannot in a perennial work of the nature of the Coal jetty afford to divest themselves of all authority over the work by creating an independent contractor. The owner of the jetty to all intents and purposes is moreover responsible for the work to the Regional Port Directorate if an occasion arises as disclosed in the deposition of Shri Palchoudhury (B.I.S.N. witness). The result is that the preliminary objection is devoid of any substance and the same is repelled.

**Issue No. (8).**—Coming to the issue itself Shri Mukherjee, the learned counsel for Port Mazdoor Panchayet argued that the contract system by this time had become a source of tyranny and oppression so far the workers were concerned and that it was high time that the same should be abolished and the relationship between the principal employer and the workers be established on direct basis. It was stressed that the contract system has since been done away with at other ports and the system of direct recruitment of labour has also been introduced in the Docks under the Port Commissioners and that decasualization was necessary in the development of workers lot. It was further argued that some of the features are already in existence because the workers are given quarters and free ration and if and when the Company directly takes over and accepts the responsibility of labour, the money which was being paid to the contractor as a middle man can well be spent in the welfare of the workers as was being done by the Port Commissioner. Shri Mukherjee next referred to the conditions which were prevailing and which had led to violence on more than one occasions on account of the contractor Thakur Mahadeo Singh & Sons' method of work and unsympathetic treatment towards the workers. On the other hand, Mr. Sinha the Counsel for the other Union viz. Mazdoor Sangh did not see eye to eye with the Counsel of the Port Mazdoor Panchayet and while referring to the actual state of affairs maintained that the question of decasualization was critical one inasmuch as in view of the statement of Principal employer B.I.S.N. 'that they had no care for the jetty', the decision of decasualization would affect the whole lot of workers viz. 700 which was likely to prove disastrous for the workers. Shri Sinha proceeded that even in the case of the contractor this decasualization was not called for because he won't be able to retain more than 25 per cent. of the workers strength and the decision if arrived at according to the wishes of Port Mazdoor Panchayet would affect the lot of the other workers.

The employers Counsel Shri Sen in reply to the argument of Shri Mukherjee on Issue No. 8 contended that so far the abolition of the contract system was concerned which forms the first part of Issue No. 8, the move was not only misconceived but was furthermore untenable under the very concept of Industrial Disputes Act. The argument precisely was that this part of the Issue does not fall under Section 2 (k) of the Act for the simple reason that the demand is rather for the non-employment

of the employer and as such was not cognizable under the Industrial Disputes Act. It was emphasised that the Industrial dispute means:

'Any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person'

and not with the non-employment of the employers themselves. Adverting to the 2nd part of this Issue Shri Sen proceeded that decasualization of labour by itself may have its advantages in public concerns but not in a private enterprise as the present industry is. That it was not at all possible because the work depends on the arrival of ships, availability of coal, inclemency of weather and fluctuation and irregularity of work. It was next argued that the analogy of Port Commissioner's labour does not hold good because Port Commissioners can well afford to pay more while a private enterprise may not have the same facility and secondly the Port Commissioner had more avenues of work and the permanent labour could be engaged in other work but in the case of B.I.S.N. and contractor Thakur Mahadeo Singh the work is so uncertain that permanent labour would mean forced payment for idle work which the contractor could not possibly afford. It was maintained that the present system was working very well and there was no such contingency as to change this system. The labour was afforded adequate accommodation and the facility of free ration, free accommodation, fuel and liberty to seek labour at their leisure time. Finally, it was argued that decasualization would naturally guarantee minimum wage which was not possible because B.I.S.N. had only one berth and the work could not go on regularly throughout the month.

Now the above discussion on this all important issue manifestly shows that the point involved is rather ticklish and much can be said on both sides. It would not be out of place therefore to consider the question of the abolition of the contract system and the decasualization of the workers to bring them under the direct control of the principal, objectively also before determining it subjectively as to whether a case has been made out for the decasualization on merits in the industrial concern under Reference. Now objectively the question was considered about two decades back by the Royal Commission and lately by the Labour Investigation Committee of the Government of India in the year 1943-1944. The Royal Commission condemned the system of recruitment of labour through intermediaries, but still some of the Enquiry Committees set up by the provinces came to the conclusion that even in centres like Bombay, Madras and Bihar the stage of development had not reached for dispensing with the intermediary recruitment. The Labour Investigation Committee, Government of India, in their report made pertinent observations regarding contract labour and some of these may profitably be quoted from the report as under:

*Page 83—Labour Investigation Committee—Government of India—Main Report:*

"Immediate employment of a large labour force at short notice to facilitate speedy execution of work, the want of adequate supervisory staff and the absence of adequate machinery of Employment Exchanges, which could supply the required number of workers when needed, have been one of the reasons advanced in favour of the employment of contract labour. Whatever may be the grounds advanced by employers, it is to be feared that the disadvantages of the system are far more numerous and weightier than the advantages. In the first place, the contract system undoubtedly enables the principal employer to escape most of the provisions of the Labour Acts, especially the Factories Act, the Payment of Wages Act, the Maternity Benefit Act, etc., though the Workmen's Compensation Act protects the worker from the evils of vicarious liability arising from the contract system. In a factory, mine, or workshop the contract labour is here to-day and gone to-morrow, and it becomes difficult for the administrators of the law to come to grips with the system."

Commenting in particular on the Port labour, the Labour Investigation Committee found that except in the Port of Karachi there were no regular scales of pay in other ports and that in the port of Bombay both skilled and unskilled workers were on daily rates of pay. Reference was also made to the labourers employed in the Calcutta port for loading and unloading. But, it appears that notwithstanding of the suggestions made several years ago we have not reached the stage of decasualization to be introduced as a matter of principle without considering the particular facts of each case, and distinction between essential and non-essential processes shall have to be drawn. A scheme has been sponsored quite recently for the Madras Dock Workers styled as 'Madras Dock Workers Scheme', 1951 with the

object to ensure greater regulation of employment for Dock Workers as well as to secure that an adequate number of dock workers is available for the efficient performance of dock work. This scheme furnishes a good data for the improvement and amelioration of the lot of the workers and may well go in favour of the Workers Union in the appreciation of their demand for decasualization. But as observed above the stage is not reached by this time to abolish contract system necessarily in view of the objective without considering each case on its own merits. Furthermore, the issue is to be considered within the purview of Industrial Disputes Act 1947 (as amended) and the matter is to be adjudged within the four corners of the definition of the Industrial dispute. The issue reads:

- (1) Whether the contract system should be abolished, and
- (2) workers decasualised directly under the principal of the contractor.

In one sense both are inter-connected and Part II would form the ultimate result of the first. The stand taken up by the contractor's Counsel regarding the first part of this issue was that the demand does not fall within the purview of the Industrial Disputes Act inasmuch as the demand is not connected with the employment or non-employment of workers; but on the contrary was for the removal of the employer himself. The argument exactly is that the demand does not fall within the ambit of Industrial Dispute as defined under Section 2 (k) of the Act. Shri Mukherjee, the learned Counsel for Port Mazdoor Panchayat, replying to this legal objection had no answer and Shri Sinha, Counsel for Mazdoor Sangh, rather opposed the abolition of the contract system and supported the Employer's view point. In the case of Calcutta Port Commissioner Docks Messrs. Bird & Co.'s labour was no doubt decasualised but that was done at the instance of the Government as admitted by Shri Jiten Sen, Secretary of Port Mazdoor Panchayat, in his deposition and not by adjudication under the Act. Under these circumstances the legal objection clearly prevails and however bad the contract system objectively may be the demand is beyond the scope of the Industrial Dispute and must fail on this short ground. Secondly, Shri L. M. Hogan, Offg. Dock's Manager, Calcutta Port Commissioner, who was examined on the side of Port Mazdoor Panchayat in his deposition while explaining the procedure regarding the recruitment of labour also stated that at present the Port Commissioners have to deal with two kinds of labour viz. (1) decasualised which are duly enrolled and (2) temporary who are recruited through Sardars. He also stated that they had got contractors under the Controller of Stores for unloading coal, which is brought for local consumption at the docks. The witness proceeded that Port Commissioner has still contractors dealing with certain items and the porters during the course of eight hours normal work are not paid according to the tonnage expected from them but on the actual tonnage they handle. The witness further deposed that by going through the work he could say that casual labour is still an essential feature to be maintained in addition to the decasualised labour. The witness concluded that this was due to the fact that nobody could guarantee the tonnage to be handled for the next 12 months and maintained that a combination of the two would make the ideal thing. Suffice it to say that even the Port Mazdoor Panchayat's own witness does not support the whole-hog decasualisation and as such the demand for the abolition of contract system prevailing in B.I.S.N. is not warranted on merits in this case as well. The majority of workers who are organised under a recognised Union styled Mazdoor Sangh furthermore oppose the demand categorically, and under these circumstances it would be rather riding rough shot over the wishes of the majority of workers merely to appease a section of discharged workers under the Port Mazdoor Panchayat. The demand for the abolition of contract system accordingly is not warranted in law and fact and must fail.

Now coming to the second part and in view of the finding that the contract system cannot be abolished under the Industrial Disputes Act, the other part of the issue being a component part of the first would also be answered in the negative and B.I.S.N. cannot be called upon to take up the labour directly under them. It may however be made clear in this respect that B.I.S.N. is the principal employer as held above in repelling the preliminary objection raised by the B.I.S.N. and the contractor Messrs. Mazdoor Sangh & Sons cannot be treated independent contractors as alleged by their Counsel. The result is that B.I.S.N. as principal employer shall be responsible for the service conditions of the workers through the contractor as their agent primarily although issue No. 8 is answered in the negative.

**Issue No. (1).—**Whether the existing wages of the workers are adequate? If not, whether this should be increased and to what extent?

The demand embodied in Issue No. 1 appears to me to be the one real grievance which has been jointly claimed by the Mazdoor Sangh, representing the majority of the workers of B.I.S.N., as well as Port Mazdoor Panchayat who have more vigorously

agitated for the change of conditions so far the existing conditions of labour at the dock are concerned. In this respect the evidence adduced by both sides and the position taken up by the Union as compared with that of the employer put together in narrow compass may be summarised as below:

The demand advanced by the Port Mazdoor Panchayat on behalf of the workers was to award same wages which are given to the porters of the Port Commissioner viz. Rs. 80 minimum without ration. According to the statement of Rekhai Sardar who was examined by Port Mazdoor Panchayat as their witness the average wages of the worker per month under B.I.S.N. amount to Rs. 47. It was, however, admitted that the workers were getting free ration and free supply of coal for fuel purposes besides the facilities of accommodation, medical aid and liberty to work outside in order to add to their earnings at the time of enforced idleness when there is no work at the jetty. The position taken up by Mazdoor Sangh was that wages are inadequate and some increase is necessary and in this respect it was submitted that this increase can be made by subtracting it from the commission of As. 2 from Sardars to Anna 1 and adding it to the wages of the workers. It was maintained that this would surely better the lot of the workers and the sardars who are getting already more would not be much affected. The learned Counsel for the employer on this issue was more explanatory and on the basis of some documentary evidence produced in this connection maintained that monthly wages of each worker amount to Rs. 69/8/- and at abnormal times when there is not much work it comes to Rs. 45 per month. That in addition to the wages the workers are given free ration, the money value of which is Rs. 26/11/- according to the statement (Ex. 16) brought on the record. Reference was made to some other documents also wherein statistical figures were given. It was asserted that taken altogether the approximate monthly wage of a worker would come to about Rs. 95 in normal days and Rs. 71 in abnormal days and that this amount can favourably compare with the wages earned by workers in other industries and as such was not inadequate. It was argued that in the jute mills the monthly wage per worker is about Rs. 58 as found by the Jute Tribunal award of 31st August 1948. Similarly in the Engineering award (published in July 1948) of West Bengal the monthly wages of the workers came up to Rs. 55 which was revised in September 1950 and was raised to Rs. 61. The learned Counsel also referred to a report published in the Indian Labour Gazette regarding the conditions of labour at the principal ports of India and averred that the grades given in the Labour Government Report are at par with the one allowed to the workers under B.I.S.N. It was, further contended that the analogy of Port Commissioner does not apply for the simple reason that Port Commissioners jetty was governmental one where more avenues were open for work and at the time of enforced idleness the extra labour could be utilized while in the private enterprises the guarantee of a minimum wage as demanded by the other side was not practicable. It was next argued that the financial position of the contractor had recently deteriorated because previously he was getting Rs. 1/12/- per ton as evidenced from Ex. 8 while now he was only getting Rs. 1/4/- and paying As. 15 to the workers out of it. The learned Counsel also pointed out another disparity in the case of Port Commissioners and that of B.I.S.N. namely that the Port Commissioner had alternate jobs while in B.I.S.N. no alternate job was available for the workmen.

The Union representative however did not agree with the figures quoted by the employer side and dubbed the comparing wages given in Jute Mills award and Engineering award as misleading as the same were found in 1948 and the living wage index has gone very high by this time. Notwithstanding of the seeming disparity in the position taken up by both sides and taking the broader view I think it would not be unreasonable to adopt the *via media* of average wage taking into consideration the amount of Rs. 45 wage per mensem admitted by the Union side and Rs. 69 as urged by the employer. This average on calculation comes to Rs. 57. This amount of Rs. 57 again appears to me the fair basis when considered in the light of the position taken up by Mazdoor Sangh. Shri Satya Narain Rao, Secretary B.I.S.N. Mazdoor Sangh in his statement in this respect stated as below:

"The total earnings of each porter would come to about Rs. 65 to Rs. 70 per month, when the work is slack it some times comes down to Rs. 30 and Rs. 40. The porters if the work is available throughout the month may feel satisfied but when the work gets slackened they do feel very much dissatisfied. Our demand is that the rate should be increased. In case they go on getting Rs. 65 or Rs. 70 per month plus the ration and other amenities I think the porters will feel satisfied with this earning."

Now the analysis of this statement clearly lays down  $\frac{70 + 40}{2} = \text{Rs. } 55$ . The recognised Union which claims to have almost all the workers on the rolls of the

Sangh feels satisfied if the workers could get Rs. 65 plus ration, etc. The demand of Port Mazdoor Panchayet viz Rs. 80 minimum without ration as such does not go further than the demand of Mazdoor Sangh. In other words the demand of the workers on Issue No. 1 is rather unanimous. The disparity furthermore as observed above is not much and I feel inclined to accept the demand as urged by Port Mazdoor Panchayet, who claimed to be the real well-wishers of the workers as compared with the Mazdoor Sangh to whom they call sarcastically the creature of the employer. Their demand all told is for Rs. 80 per mensem without ration. But in these days of scarcity and the position taken up by Mazdoor Sangh that they would rather like to have ration, I am not prepared to dispense with this much needed provision in these days and do not think that Port Mazdoor Panchayet is well advised to deprive the workers from getting ration in order to score a point on the lines of Port Commissioners docks so far an increase in the wages was concerned. This however raises another disputed question as to what is the money value of the free ration which is being given to the workers by B.I.S.N. Shri Sat Narain Rao, Secretary, Mazdoor Sangh, in this respect deposed as under.

"The porters get free ration of rice, sugar, Atta etc. from the contractor. The porters and Sardars also get coal for fuel purpose (3 mds.) free of cost. They have not to pay any rent for the quarters given to them. The workers are supplied with spices and other necessities also. The all told cost on this supply to my estimate would come to Rs. 13 or Rs. 14 per month. This is correct that one porter receives one seer five chattaks of rice per week, Atta that each porter gets per week is two seers and 3 chattaks, and sugar one chattak. In addition to this the porters also get barley 1 seer 8 chattaks, Dal 1 sr. 4 ch. every week. The porters are allowed to work elsewhere when they are in enforced idleness."

Bauria Sardar, a witness examined on behalf of Port Mazdoor Panchayet, deposed that it was true that the workers receive one seer Dal, one and a half seer Barley/Johar Atta, half seer salt per month; but he was not aware as to what was the price of these articles. On the other hand Shri B. B. Singh, Agent of the contractor Thakur Mahadeo Singh, who came into the witness box as his own witness, gave the approximate value of the ration as Rs. 4-1-9 per head per week as detailed in the chart (Ex. 16) prepared by him and brought on the record. He further deposed that the money value of other amenities was about Rs. 9 as detailed in the same chart. Shri S. C. Sen, the learned Counsel for the contractor, in the course of his arguments calculated the money value of the ration @ Rs. 26-11-0 according to the aforesaid chart (Ex. 16). Now it would be rather difficult to compute correct value when the rates of things are fluctuating everytime under the stress of scarcity of food commodities but I think in the matter of ration also the method of mean average would also work as a safe guide and by calculation  $\frac{26 \text{ plus } 14}{2} = \text{Rs. } 20$  may

safely be taken as the money value of the ration. The two averages one in the case of monthly wages and the other in the case of ration comes to Rs. 57 plus Rs. 20 = Rs. 77 which is a near approach to the demand of Rs. 80 made by Port Mazdoor Panchayet on behalf of the workers. The ultimate analysis of all these facts and circumstances mentioned above brings me to the conclusion while answering the issue referred to, that the existing wages of the workers are not adequate and the same should be increased.

As to what extent the increase should be made, I have fully explained above while referring to the monthly average of the wages that the amount of Rs. 57 plus ration etc. would meet the situation. But as the labour under the principal employer through contract system is to continue in the light of the finding given on Issue No. 8, the only course for increase of wages is to enhance the rate per tonnage in order to bring the monthly wages approximately to the average wage calculated above.

Now at present the rate per tonnage according to the evidence brought on the record is As. -/14/6 per ton during the day and -/15/- per ton at night shift and with this rate the usual earnings of a worker come to Rs. 45 minimum and Rs. 70 maximum per month as stated by Shri Satnarain Rao, the Secretary of Mazdoor Sangh. Without being very definite and taking the broad view I think if an increase of Anna -/1/8 per ton be made in day shifts and -/2/- per ton in night shifts viz. Re. 1 per ton during the day time and Re. 1/1/- per ton at night, the grievance will stand redressed in reasonable measure. The only other question connected with this increase in the rate per tonnage is that the contractor, who is working as Agent under B.I.S.N. the principal employer, will be affected by this but in case he actually suffers it rests on the mutual agreement between B.I.S.N. Company and Messrs Thakur Mahadeo Singh & Sons and this Tribunal is not concerned with that aspect of the question.



**Issue No. (2).—**Whether the Sirdars should be paid a supervisory allowance of Rs. 20 per month in addition to the usual wages paid to the ordinary workers?

The question involved is simple as to whether the Sirdars should be paid Rs. 20 per month in addition to the usual wages paid to the ordinary workers. In view of the fact that the institution of Sirdars is to carry on the supervision work, the demand aims at some supervisory allowance in order to ensure responsibility for the supervision. In this respect the position taken up by Port Mazdoor Panchayet is that Sirdars' function is important and that their earnings are not as high as stated by the other side and according to the estimation of Port Mazdoor Panchayet they are getting about Rs. 80 per month and a supervisory allowance of Rs. 20 is necessary to improve their lot. On the other hand the stand taken up by the contractor was that the earnings of the Sirdars amount to Rs. 150 plus ration and any addition by way of supervisory allowance was not called for. Now it is a different matter that the institution of Sirdars as a jobber or go between is to be deprecated or appreciated but when this institution is to carry on because no one has contended against this institution and the same is also existing in the Jettys of Calcutta Port Commissioner, I think supervisory allowance is necessary by the nature of their work. Their commission out of the earnings of the workers does not in the strict sense of the word satisfies the emoluments as a supervisor and on the analogy of foremen and charge hands, some one in the interest of the production must be paid some supervisory allowance. On the question of amount of supervisory allowance no arguments were addressed and I think the amount of Rs. 20 as claimed by the Union side is not in any way exorbitant. The same is allowed with the result that the Issue No. (2) is answered in the affirmative and that the Sirdars would get a supervisory allowance of Rs. 20 per month in addition to the usual wages paid to the ordinary workers.

**Issue No. (3).—**Whether the retrenchment or dismissal of the workers since 17th March 1950 were an act of victimization by the employer, and is so, whether all or some of the workers should be reinstated and if so who?

This issue was hotly contested by both sides and by the nature of the dispute and the divergent versions regarding the dismissal and the implementation of the settlement which was ultimately arrived at between the parties shall have to be discussed in all its implications. The case of Port Mazdoor Panchayet was that discharge of Sirdars dates back to 3rd March 1950 when a large number of workers having been disgusted with the work of Mazdoor Sangh decided to leave that Union and became members of Port Mazdoor Panchayet. Reliance was placed on Ex. F in this connection. It was further argued that estrangement ultimately developed into a conflict between the workers and the attitude of the contractor added fuel to the fire. There was an actual tussle between the two sides and a prosecution was launched in the Magistrate Court against the Sirdars and some of the workers of Port Mazdoor Panchayet were prosecuted. They were however discharged by the Presidency Magistrate in May 1950. The contractor meanwhile on the pretext of alleged strike had discharged 18 Sirdars from service, whereupon the General Secretary, Port Mazdoor Panchayet, approached the Regional Labour Commissioner as evidenced from Exhibits H, J and K and protested against the conduct of the contractor. In the course of arguments reference was made also to the deposition of Phuleshwari Sardarni and it was argued that their discharge on the excuse of strike was wholly unjustifiable. Shri Mukherjee, arguing on behalf of Port Mazdoor Panchayet, carried me through all the correspondence addressed to the Regional Labour Commissioner by Port Mazdoor Panchayet office bearers and submitted that the matter was ultimately taken up by the Regional Labour Commissioner and an agreement (Ex. 1) was arrived at, and that the agreement was broken by the contractor and had lost all validity so far the workers were concerned. It was stressed that the one condition in the agreement was that the workers would be allowed to return to the quarters but they were not allowed when the contractor was called upon to admit them in their quarters. Reliance was placed on the sworn testimony of Mukund Singh and it was urged that the breach of the terms of the agreement was also corroborated by the contents of Ex. O and that ultimately Regional Labour Commissioner intervened in order to get them admitted in the quarters. The learned Counsel at the same time submitted that in the circumstances when the contractor was not prepared to admit Mukund Singh and Rekhai two of the Sirdars in their quarters as agreed upon in the terms of agreement, the Port Mazdoor Panchayet did not consider it necessary to comply with the other terms. The other reason which Shri Mukherjee gave in the course of arguments was that on this attitude of the contractor certain misgivings and apprehensions arose in the minds of the workers viz. that if the Sirdars were sent out side according to the terms of the agreement it would be prejudicial to their cause and as such this condition was not complied with. It was next argued that

one of the terms of the agreement was that the question of employment would be re-opened after six months and this by itself was such that the demand of the workers had not been satisfied wholly and as such the agreement was not acceptable to them. Finally, reliance was placed on a letter of Regional Labour Commissioner wherein she stated that the contractor had failed to implement the agreement. Reference was also made to the statement of the Labour Inspector Shri A. K. Basu wherein he stated that despite his efforts the conciliation failed. Lastly, it was asserted that the non-implementation of agreement should not prejudice the demand of Port Mazdoor Panchayet for the reinstatement of the discharged workers and that natural justice should prevail and not the legal technicalities.

Shri Sinha arguing on behalf of the Mazdoor Sangh had not much to say regarding this issue. He only observed in the course of arguments that as the discharged persons had gone on strike and Mazdoor Sangh did not press for their demand of reinstatement, Mazdoor Sangh was not a party to the agreement between Port Mazdoor Panchayet and Conciliation Officer and as such Mazdoor Sangh had nothing to say in the matter.

Shri S. C. Sen arguing on behalf of the contractor straightaway dilated upon the agreement Ex. 1 and did not take much notice of the arguments advanced by the other side so far the background was concerned. The stand taken up by the Counsel was that in whatever manner the quarrel had arisen or as to how the prosecution was launched it was actually concluded by agreement (Ex. 1) which was binding on both sides. It was argued that the background explained by the learned Counsel of Port Mazdoor Panchayet was beside the point and was not relevant for the determination of the issue. It was emphasised that in the eye of law an agreement could not be re-opened so long the plea of fraud in the execution of agreement was not raised and evidence in support of that adduced. Shri Sen vehemently urged that in the absence of any such plea Port Mazdoor Panchayet was not justified to treat the agreement as invalid and the one question for the determination was regarding the implementation of the terms of the agreement and that who was responsible for the breach of the terms of the agreement. Shri Sen did not refer in the course of arguments made in the first instance to the letter sent by Miss Radha Bai, Regional Labour Commissioner (Ex. P) and next time when the Counsel were sent for the elucidation of some points on Issues No. (3) and (8) submitted that Ex. P was answered in the light of the comments already made in Ex. 5 on all the points raised by Port Mazdoor Panchayet. It was maintained that in point of fact Port Mazdoor Panchayet forestalled to move the Regional Labour Commissioner on 9th June 1950 (Ex. O) on the pretext that the Sirdars were not being accommodated, in order to get out of the agreement. It was averred that Mukund Singh and Rekhal were duly admitted and are still living in the quarters. Shri Mukherjee this time reiterated the previous arguments and while referring to the letter dated 10th June 1950 (Ex. 4) sent by the contractor to the Regional Labour Commissioner, wherein he showed his willingness to comply with all the terms of the agreement and that he had found jobs for the Sirdars according to the settlement at Akhra brick field adjoining Calcutta as well as quarters for them, stated that honestly speaking the whole position was like this 'that it was the spirit and not the letter of the agreement which was to be carried out and Port Mazdoor Panchayet by sending Mukund Singh and Rekhal to occupy the quarters made a test of the settlement. These two Sirdars were obstructed by the contractor's people to take possession of the quarters and there was some row whereupon Port Mazdoor Panchayet thought that it would be of no use to carry out the agreement when already prosecution was pending in Magistrate's Court and it was just possible that the contractor might avail the agreement in putting himself in better position.' The learned Counsel frankly stated that the contractor's attitude was such which did not inspire confidence and Port Mazdoor Panchayet accordingly thought it proper not to allow the discharged Sirdars to go outside Calcutta. It was urged this time once again that the question should be considered in the light of the background of the dispute.

Now on merits, Shri Mukherjee was rather frank enough to state unequivocally that the settlement although arrived at and duly executed was put to test by sending two Sirdars and when they found that they were obstructed, the Port Mazdoor Panchayet did not think it worthwhile to give effect to the agreement. Shri Jiten Sen, Secretary, Port Mazdoor Panchayet, who was incharge of the case when came into the witness box as his own witness also spoke in the same strain and in this connection the relevant extract from his deposition is reproduced as under:

"This correspondence resulted in an agreement before the Conciliation Officer (Ex. 1) whereby it was agreed that the Sirdars will be allowed to continue to remain in their quarters for a specified period but this

part of agreement was not also carried out by the contractor. The Regional Labour Commissioner was duly informed in regard to the breach of the agreement by letter dated 9th June 1950 (Ex. O). This is however correct that an offer for the re-employment of Sirdars was made but that offer was not in consonance of the agreement and the Port Mazdoor Panchayet did not consider it and the offer was declined. The other reason for declining to accept the offer was that the jobs offered were at a place far away from Calcutta as well as the jobs were of porters and not of Sirdars. I rather did not advise them because they will be cut off from the rest of the workers and will thus open themselves from the acts of violence from the other side."

Shri Jiten Sen in cross examination on this point further stated:

"This is correct that the agreement (Ex. L) was signed by the Organisation Secretary Mr. K. L. Chawla and the list of the names of the Sirdars attached therewith is also correct. A letter dated 10th June 1950 emanating from the office of Mahadev Singh and addressed to Regional Labour Commissioner a copy of which was shown to me was not received by me so far I can remember. It is a fact that I complained to the Regional Labour Commissioner in regard to the non-implementation of the terms of the agreement (Ex. 1). One of these complaints were made through Ex. O dated 9th June 1950. Another dated 16th June 1950. I don't remember if I received the reply of Mahadev Singh, a copy of which is shown to me dated 22nd June 1950 (Ex. 5). Of course the letter dated 26th April 1950, sent by the contractor to the Regional Labour Commissioner (Ex. 6) was shown to me so far I remember but no copy of that was delivered to me. I cannot say definitely that Akhra is situated at a distance of only two miles from Garden Reach; of course it may be within the Municipal area of Garden Reach. This is correct that buses ply from Garden Reach to Akhra."

Before entering into the question of non-implementation of the agreement and as to who was responsible for its breach, I examined the whole evidence in order to ascertain the real cause of dismissals in question, because this was repeatedly impressed upon me by Shri Mukherjee and to my mind it is contemplated by the issue also. In this respect the judgment of the learned Presidency Magistrate upon which reliance was placed by Port Mazdoor Panchayet was helpful. The conclusion arrived at in this judgment strictly speaking may not form relevant evidence for the determination of the point but the facts set forth in that indicate that Port Mazdoor Panchayet people wanted to convene a meeting at the premises of cooly lines and they came in conflict with the Mazdoor Sangh people. The contractor's conduct in the matter was not explained and it is possible he might have lodged the prosecution in the interest of the Company's work and it was also not beyond the range of possibility that he wanted to keep Port Mazdoor Panchayet at some distance and did not like them to take up the cause of the workers. At any event I think when the dispute was referred to the Regional Labour Commissioner and a settlement was arrived at before the Conciliation Officer, the question for determination is virtually with regard to the non-implementation of this agreement and not that on the score of natural justice that agreement should be wholly eliminated for the purpose of discussion and a fresh decision should be arrived at as to whether the Sirdars were justifiably or unjustifiably discharged. The provisions of Rule 31 of Industrial Disputes (Central Rules) 1947 rather create a bar as borne out by the wording of the Rule which is reproduced for facility of Reference as below:

'A party appearing by a representative shall be bound by Acts of that representative.'

Reverting to the agreement (Ex. 1) the main terms under the agreement read as follows:

- Ex 1. (1) These 18 Sirdars whose names are noted in the enclosed list will be given alternative employment by the contractors at any other place near about Calcutta on an average salary ranging between Rs. 60 to Rs. 70 per month per head forthwith.
- (2) After a period of six months the above mentioned Sirdars will be re-transferred to their original places of work provided they improve their conduct to the satisfaction of their employers. The cases of the sirdars will also be placed before the Conciliation Officer for review after the period of six months is over.

- (3) The contractors agree to allow these Sirdars to stay in their present quarters for a period of twenty-one days and also supply them with free rations provided no alternative quarters are arranged for the Sirdars by the contractors in the meantime.
- (4) The Union as well as the contractors hereby promise that they will spare no pains to remove the misunderstanding and see that no disturbances occur in their quarters or in the places of work.

From these terms quoted above it appears that the object of the settlement was to avoid the recurrence of disturbances and it is just possible that keeping this in view the Sirdars were sent outside Calcutta on alternative employment and the whole matter was shelved to be reconsidered after 6 months. They were allowed to stay in the present quarters for a period of 21 days with the proviso in clause 2 that they will be transferred to original places when they improve the conduct to the satisfaction of the employer which is significant. These terms were agreed upon by both sides and were ratified by the Conciliation Officer and it is to be seen as to who was responsible for the breach of the terms and the non-implementation of the agreement into effect. The argument advanced on behalf of the Port Mazdoor Panchayet that Mukund Singh and Rekhai were obstructed may not be without foundation but this is again a hard fact that they were admitted and are even now staying there. The position explained by the contractor regarding their admittance into the quarters after the agreement and the obstruction caused by the guard standing on duty at the gate was explained in his letter dated 22nd June 1950 (Ex. 3), besides the letter dated 10th June 1950 (Ex. 4) sent soon after the settlement. This speaks lot although it was crossed by an earlier letter of 9th June 1950 (Ex. O) sent by the Port Mazdoor Panchayet to Regional Labour Commissioner that Mukund Singh and Rekhai were not admitted and that there was no change in the attitude of the contractors. The position is further crystallised by the deposition of Shri Jiten Sen himself and the arguments of Shri Mukherjee the learned Counsel of Port Mazdoor Panchayet. These may not be repeated once again as the same have been quoted *in extenso* from the statements of Shri Jiten Sen and arguments of Shri Mukherjee wherein they have unequivocally stated that Port Mazdoor Panchayet did not comply with the terms of the agreement for reasons which affected the solidarity of their organization and that they did not like to allow the cause to suffer. It was disclosed frankly that Port Mazdoor Panchayet was afraid that if the Sirdars were sent outside Calcutta their cause would suffer and so the Secretary of Port Mazdoor Panchayet did not advise them to go. Now it was sought in the first instance to argue that the place where they were to be sent was far away but subsequently it was admitted that it was within the municipal limits of Garden Reach and buses ply between Akhra and Calcutta. In these circumstances it would be futile to argue that the agreement failed for want of implementation on the part of the contractor. The only other argument urged in this connection was based upon the letter of Miss Radha Bai dated 25th August 1950 (Ex. P) In this letter while referring to an extract from the letter of Port Mazdoor Panchayet dated 23rd June 1950, the contractor was called upon to show within 10 days as to why the matter should not be referred for adjudication since he had failed to honour the terms of the settlement arrived at from time to time. The call was based on the allegations made by the Port Mazdoor Panchayet and the contractor was called upon to explain in that matter. This does not amount to any decision that the contractor was responsible for non-implementation. This letter furthermore is dated 25th August 1950 i.e. after a period of about two and a half months from the date of the agreement. It clearly shows that the Sirdars who were offered alternative appointment did not join there at Akhra on the advice of Port Mazdoor Panchayet Secretary and the tussle continued between the two parties and ultimately the Regional Labour Commissioner had to call upon the parties as to why the matter be not referred for adjudication. The same was referred and is under determination. Taking into consideration all the facts and circumstances described above I have no hesitation in coming to the conclusion that the Port Mazdoor Panchayet office bearers changed their mind (may be in the interests of higher issues of their organisation) and did not proceed with the implementation of the agreement (Ex. 1). They had a grouse that the two Sirdars were obstructed at the gate of Cooly Lines by the guard but that plea has no legs to stand when soon after they were admitted and even upto now they are residing in these quarters where they were according to the terms of the agreement were allowed to stay. The stay was again for only 21 days and if they had gone outside for alternate job the whole matter should have been considered after 6 months but Port Mazdoor Panchayet did not like the idea presumably on account of the alleged intrinsic flaws in the terms of the agreement according to their estimation. It would be laying down a dangerous principle if agreements when arrived at with open eyes be thrown out because some of the terms were thought not favourable to one party on further consideration. The whole principle of collective bargaining

rather hinges upon agreements and settlements and if the sanctity of agreements is to be flouted in this way there will be no end of litigation. I am therefore constrained to hold that the discharged Sirdars did not avail the terms of the agreement and must suffer if sufferance actually exists. It was furthermore admitted in the course of arguments that 9 (*viz.* 1. Sukaloo, 2. Bulloo, 3. Phuleswar, 4. Munshi, 5. Panda, 6. Arjuna, 7. Bauria, 8. Punia, 9. Jotia) out of 18 Sirdars are now living in the quarters, one Pindika Sirdar has died while others have already left. These nine Sirdars are working elsewhere and the employers Counsel stated that they were working at the Port Commissioner docks where Port Mazdoor Panchayet is helping them. On the other hand Shri Jiten Sen said that they were not working there and were eking out their livelihood independently. Two of the discharged Sirdars it was stated were taken back by the contractor although there was some conflict between the parties on this point also but at any rate the question of 9 Sirdars only falls for consideration as well as a subsidiary one regarding the workers attached with the Sirdars who were also discharged but no evidence was made available as to who they were and where they are. They are not staying at the premises excepting two. Reference was made to the list of the workers who were attached with the Sirdars but the two Sirdars who were examined by Port Mazdoor Panchayet did not say anything in their statement regarding their workers. It appears that the lot of the workers depended on the service of the Sirdars and when Sirdars went out of job they also dispersed in their villages and must have been absorbed some where or might have come back under other Sirdars as evidenced from the list of workers Ex. F. Their case accordingly need not detain the determination of the issue. The result is that Issue No. 3 goes against Port Mazdoor Panchayet and in my opinion no case for reinstatement was made out. In order to avoid any further complication it may also be directed that in view of the above finding the 9 Sirdars and two workers who are still staying in the Coolie Lines will not be disturbed atleast for one month more from the date when the award operates in order to enable them to seek accommodation elsewhere.

**Issue Nos. (4) and (5).**—The claim of the labour Unions in these two issues obviously relates to the method whereby the security of service be ensured and so far registration was concerned the employer had no objection and the controversy centres round the procedure which was to be laid down. In regard to Issue No. (5) the facilities of leave and Provident Fund were however opposed. The Port Mazdoor Panchayet representative averred that by registration, Port Mazdoor Panchayet means that such a procedure be laid down whereby a worker be placed in a position to prove that he is in the employment of the Company and that the method of issuing identity cards with photos be introduced. It was further argued that a register be also maintained wherein the names of the workers with parentage etc. be entered in order to ensure regularity of service. Shri Sinha on behalf of the Mazdoor Sangh also pressed this demand and asked for introducing the method of issuing identity cards with photos of these workers. Shri S. C. Sen arguing on behalf of the employer did not give any suggestion of his own and faintly argued that the introduction of registration would create some difficulty when there was no work and furthermore that the number of workers was always fluctuating because the same rests on the quantity of work. In the absence of any suggestion from the employer side and no-objection attitude so far registration was concerned, the procedure claimed by the Union side does not appear to me unreasonable. By registration it goes without saying that workers identity is to be maintained and as such the issue of identity cards with photos appears to be the proper method. I would therefore direct that:

- (1) all workers employed by B.I.S.N. through the contractor at the coal Depot and at the jetty should be registered and a regular register be kept in the office of B.I.S.N. with a duplicate copy with the contractor.
- (2) Every registered worker shall be supplied free of cost with an identity card in the form prescribed by B.I.S.N. It is however left to the B.I.S.N. to have every worker's photograph on the identity card or only his full address with parentage for the purpose of identity. In case of a loss of card, which shall always be reported to the employer in writing immediately, a fresh card will be issued but the cost thereto shall be payable by the worker concerned to avoid frequent losses. The above cost shall be determined by B.I.S.N.
- (3) The identity card shall be surrendered to B.I.S.N. when retiring from service or at the time of discharge from service and on death.

**Issue No. (5).—**Regarding the privilege of leave with pay and facilities of Provident Fund it was argued on behalf of Port Mazdoor Panchayat that grant of leave has become a feature of every employment and in case registration be allowed it should follow automatically. In regard to the introduction of Provident Fund it was further argued that the system of Provident Fund had already been introduced with the Port Commissioner's dock workers and in the case of B.I.S.N. which is a prosperous concern, the difficulty is not unsurmountable if the Company seriously considers over the matter. On the other hand the learned Counsel for the employer thought that the demand was not practicable because the work was seasonal and was not of regular nature and as such the introduction of leave privilege and Provident Fund system was out of question. The demand for grant of leave with pay was opposed by Shri S. C. Sen on the ground that the workers as admitted by the Unions had to go on enforced idleness for want of work and as such had enough leisure to attend to their domestic affairs and in these circumstances the leave privilege was not called for. Now the fluctuating nature of the work at the jetty which admittedly rests on the availability of coal and the occasional incoming of ships for loading, the introduction of regular Provident Fund system is neither practicable nor called for and the demand which was made rather on the lines of permanent employment visualised under the scheme of decasualization, must tail *ipso facto*. Regarding the leave privilege the position is slightly different. When workers are to be registered with their identity cards their service naturally takes the shape of regular attendance at the docks and by the exigencies of life one is apt to be away from the station on account of illness or other pressing domestic needs. I, therefore, feel inclined to hold that some leave facilities be granted to the workers. Now with regard to the rules for the grant of leave, in view of the fact that the labour is of fluctuating nature and wages vary on the basis of production and not as regular pay or salary I do not think any elaborate rules be prescribed. The one simple rule to be observed would be to allow them to leave the station for a period of one month in a year on the roster system by the Employer, at the discretion of the Employer.

**Issue No. (6).—**There was not much difference on this issue which was pressed by both the Unions. The size and strength of the gang suggested by Port Mazdoor Panchayat was 12 men in each gang. Mazdoor Sangh did not give any definite number and the employer also was not explicit enough in this matter. The principle underlying the issue was acceptable to both and I think the existing practice of unequal size of labour gangs must be abolished while the system of equal size of gangs be introduced and the number suggested by Port Mazdoor Panchayat viz. 12 be given effect to. The work of course will go strictly by rotation upon which both the parties agree. In the result Issue No. 6 is resolved with the result that all workers will be divided over equal size of gangs of 12 men and each gang will be given work strictly by rotation without any discrimination or favour. In case of any complaint the employer with the consultation of the Union will decide the matter.

**Issue No. (7).—**On this Issue the argument of Shri Mukherjee on behalf of Port Mazdoor Panchayat was that the demand was not for the recognition of Port Mazdoor Panchayat exclusively on behalf of the workers but it should be recognised as representing a certain section along with the Mazdoor Sangh. It was stressed that more than one organization is working in one Company elsewhere also and in the case of B.I.S.N. both Unions should be given opportunity to represent the cause of workers. It was next argued that Port Mazdoor Panchayat is an organisation which represents more than one institution and had taken up the cases of the workers of B.I.S.N. on their approach and that the importance of Port Mazdoor Panchayat should be judged by its work and not by the number of workers on their enrolment in which certain fluctuations did occur from time to time. Finally it was urged that the recognition of Port Mazdoor Panchayat was necessary in the best interest of the workers of B.I.S.N.

This demand was vigorously opposed by Mazdoor Sangh as well as by the employer. Shri Sinha arguing on behalf of the Sangh maintained that not a single porter was on the rolls of Port Mazdoor Panchayat in these days, which represents only the discharged Sirdars and some of the workers who are no longer in the service of the contractor. Shri S. C. Sen on behalf of the employer also joined issue with Port Mazdoor Panchayat and while endorsing the facts stated by Mr. Sinha the Counsel of Mazdoor Sangh, furthermore urged that recognition of Union was not an industrial dispute and as such it could not be considered by the Tribunal. Reference was made to certain decisions of the adjudicators of Bombay, Madras and West Bengal wherein it was held that recognition was not contemplated under the definition of industrial dispute as laid down in Section 2(k) of the Act.

Now on merits Shri Jiten Sen, General Secretary, Port Mazdoor Panchayet, in his deposition has stated that he did not know as to what was the number of workers of B.I.S.N. on the rolls of Port Mazdoor Panchayet. It was submitted that at one time a large number of workers approached Port Mazdoor Panchayet and in this connection reliance was placed on Ex. E. Shri Jiten Sen, however, in his cross examination admitted that there was some fluctuation in the number. It appears to me that Port Mazdoor Panchayet is an influential body having its labour activities at Port Commissioner's docks and other places and some workers of B.I.S.N. first joined Port Mazdoor Panchayet when their cause was taken up by the Panchayet, but when their Sirdars were discharged, they dispersed and the majority of workers now in actual service are with the Mazdoor Sangh in these days; and the Sangh looks upon the Port Mazdoor Panchayet as intruders and ascribe the trouble to the ambition of Port Mazdoor Panchayet to enlarge their sphere in B.I.S.N.

The legal aspect of the question, however, strikes at the bottom of the demand and facts need not be probed further. This has been recently considered by their lordships of the Labour Appellate Tribunal in the case of Dyer Makin Breweries Ltd., Lucknow (Labour Law Journal—February 1951—page 183), wherein the Tribunal held 'that the procedure laid down in the Trade Union Act of 1926 as amended in 1947 should be followed in order to claim recognition of the union at the hands of the employer' and that union recognition is not an industrial dispute.' In the light of this authoritative dictum I have no alternative but to hold that the issue is beyond the jurisdiction of the Tribunal and the same fails on the legal ground.

NOW, THEREFORE, THIS TRIBUNAL MAKES ITS AWARD IN FERMS AFORESAID, THIS THE 20TH DAY OF AUGUST 1951.

'MRS. S. CAMBERELL-PHILL'

Chairman,  
Central Government Industrial Tribunal, Calcutta,  
[No. LR-2(30).]

### ORDER

*New Delhi, the 14th September, 1951*

**S.R.O. 1469.**—Whereas an industrial dispute has arisen between the workmen of Messrs. British India Steam Navigation Company Limited represented by their Managing Agents, Messrs. Mackinnon Mackenzie and Company, Ltd., Calcutta and the B.I.S.N. Co.'s Cargo Employees' Union in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal at Calcutta, constituted under Section 7 of the said Act.

### SCHEDULE

1. General increment of Rs. 10 to all employees of the Cargo (Outdoor) Department.
2. Pujah Bonus.
3. Framing of rules for deducting monthly bonus.
4. Holidays.
5. Overtime and holiday allowances.
6. Retirement of staff and conditions relating thereto.
7. Retrenchment of staff and conditions relating thereto.

8. Whether retirement of the following staff is justified and if not, what relief or compensation should be paid to them.

- (a) Shri R. C. Roy—Export Clerk;
- (b) Shri N. M. Dey—Export Clerk;
- (c) Shri L. M. Das—Export Clerk;
- (d) Shri J. N. Bhattacharjee—Import Clerk;
- (e) Shri B. B. Mukherjee—Assistant Import Clerk.

9. Leave Rules.

[No. LR-3(145)]  
S. MULLICK, Dy. Secy